



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 18, 2019

Madeline Fields
Deerfield Resort Homeowners Association, Inc.
1235 Deerfield Way
LaFollette, TN 37766-6620

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #9414 7266 9904 2120 5194 05

Subject: **DIRECTOR'S ORDER NO. DWS19-0003**
DEERFIELD RESORT HOMEOWNERS ASSOCIATION, INC.
CAMPBELL COUNTY, TENNESSEE

Dear Ms. Fields,

Enclosed is a Director's Order and Assessment of Civil Penalty issued by Jennifer Dodd, Director of the Division of Water Resources, under the delegation of Commissioner David Salyers, PE. Read the Order carefully and pay special attention to the NOTICE OF RIGHTS section. Please note that the required due dates in the Order are based on the date the Respondent receives the Order, and not the date that it was signed by the Director.

Corporations, limited partnerships, limited liability companies, and other artificial entities created by law must be represented in any legal proceeding resulting from an appeal of this Order and Assessment by an attorney licensed to practice law in the State of Tennessee. Non-attorneys may participate in any such proceedings to the extent allowed by law.

If you or your attorney has questions concerning this correspondence, please contact Tom Moss at (615) 532-0170 or you may contact Jessica Murphy at (615) 532-0676.

Sincerely,

Jessica Murphy, Manager
Compliance and Enforcement Unit

EJM: TAM
cc: DWR – FFO-K
DWR – Compliance File
OGC

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:)	DIVISION OF WATER RESOURCES
)	
DEERFIELD RESORT)	
HOMEOWNERS ASSOCIATION,)	
INC.)	
)	
)	
RESPONDENT.		CASE NO. DWS19-0003

DIRECTOR'S ORDER AND ASSESSMENT

NOW COMES Jennifer Dodd, Director of the Tennessee Division of Water Resources, and states:

PARTIES

I.

Jennifer Dodd is the duly appointed Director of the Tennessee Division of Water Resources (the "Division") by the Commissioner of the Tennessee Department of Environment and Conservation (the "Department"). The Commissioner is responsible for administering the *Safe Drinking Water Act*, (the "Act"), Tennessee Code Annotated (Tenn. Code Ann.) section (§) 68-221-701 *et seq.*

II.

Deerfield Resort Homeowners Association, Inc. (the "Respondent") is a nonprofit corporation properly registered to conduct business in Tennessee. The Respondent owns, operates and/or controls a community public water system (the "System") in Campbell County, Tennessee. The Public Water System Identification # is TN0000912. Process may be served on

the Respondent through the registered agent Madeline Fields, Deerfield Resort Homeowners Association, Inc., 1235 Deerfield Way, LaFollette, Tennessee 37766-6620.

JURISDICTION

III.

Whenever the Commissioner has reason to believe that a violation of the Act has occurred, is occurring, or is about to occur, the Commissioner is authorized to take corrective action pursuant to Tenn. Code Ann. §§ 68-221-705 and 68-221-712. Further, the Commissioner has authority to assess civil penalties and damages against any violator of the Act, pursuant to Tenn. Code Ann. § 68-221-713. Rules governing operation of public water supply systems have been promulgated pursuant to Tenn. Code Ann. § 68-221-704 and are effective as the Tennessee Compilation of Rules and Regulations (Tenn. Comp. R. Regs.) Chapter 0400-45-01. Pursuant to Tenn. Code Ann. § 68-221-705(12), the Commissioner may designate the Director of Water Resources as the Commissioner's duly authorized representative to exercise the powers, duties, and responsibilities of the Commissioner under the Act. David Salyers, P.E., Commissioner of the Department of Environment and Conservation, has delegated such authority to Jennifer Dodd, Director of the Division of Water Resources (the "Director").

IV.

The Respondent is a "person" as defined at Tenn. Code Ann. § 68-221-703(17) and a "supplier of water" within the meaning of Tenn. Code Ann. § 68-221-703(22) because it owns, operates, and/or controls a "public water system" within the meaning of Tenn. Code Ann. § 68-221-703(19). The System is a "community" water system within the meaning of Tenn. Comp. R. & Regs. 0400-45-01-.04(11). The Respondent, as herein described, has violated the Act.

FACTS

V.

The Respondent has obtained its source water from nine wells with separate treatment systems utilizing cartridge filters and disinfection by hypochlorination after the filtration. The Division determined in the 2019 sanitary survey that the Respondent had discontinued the use of well #7 prior to February 2019 due to production issues and currently operates with eight wells. The Respondent is currently in the process of adding a new well. There is very limited interconnection between the individual wells/distribution systems. Most wells serve independent distribution systems and are not connected to each other. The Respondent serves 437 connections and a population of approximately 1,088 persons.

VI.

Division personnel conducted file reviews covering the 23 monthly compliance periods starting October 1, 2016, and ending August 31, 2018, and monthly compliance periods ending October 31, 2018 and November 30, 2018, and determined that the Respondent failed to submit monthly operation reports (“MORs”) which include daily chlorine residuals for the nine well treatment system entry points into the distribution system for a total of 25 monthly periods. The Division notified the Respondent of the failure to report any monitoring for chlorine residual in letters dated September 17, 2018, January 3, 2019 and January 17, 2019, respectively.

VII.

Division personnel conducted file reviews for the triennial monitoring period for synthetic organic compounds (SOC) ending June 30, 2016 and for the Division-assigned growing season monitoring period ending June 30, 2017 for the 2017 – 2019 triennial period and determined that the Respondent had failed to monitor for the designated reduced list of SOCs

based on the Division monitoring waiver, which included picloram, atrazine, simazine and alachlor during the 2014 – 2016 monitoring period for the nine wells/entry points. Division personnel also determined in the review that the Respondent had monitored for atrazine, simazine, alachlor and picloram at entry points F, G, I and J (composite sample) but only monitored for atrazine, simazine, alachlor for the entry points A, B, C, D and E (composite sample), failing to monitor for picloram. The Division notified the Respondent of the failure to properly monitor for SOCs in letters dated August 12, 2016 and August 14, 2017, respectively.

VIII.

Division personnel conducted a file review for the compliance period ending July 1, 2017 and for the compliance period ending July 1, 2018, and determined that the Respondent had failed to submit a copy of the Consumer Confidence Report (hereinafter “CCR”) to the Division by the required dates of July 1, 2017 and July 1, 2018, respectively. The Division notified the Respondent of the failures to submit the CCRs to the Division in letters dated November 13, 2017 and August 3, 2018, respectively.

IX.

Division personnel conducted file reviews for the quarterly compliance period ending September 30, 2017 and for the quarterly compliance period ending September 30, 2018, and determined that the Respondent had failed to monitor for the disinfection byproducts Haloacetic Acids (hereinafter “HAA5”) and Total Trihalomethanes (hereinafter “TTHM”) during the warmest month within the quarterly compliance period, as required by regulation. The Respondent was required to take one sample for HAA5 and TTHM monitoring per year during the compliance period, in accordance with Tenn. Comp. R. & Regs. 0400-45-01-.36(6)(b)1.(i),

which allows for multiple wells drawing water from a single aquifer to be considered one treatment plant for determining the minimum number of samples required. The Division notified the Respondent of the failure to monitor in letters dated October 31, 2017 and October 31, 2018, respectively.

X.

Division personnel conducted a file review the week of November 19, 2018, and determined that the Respondent had failed to monitor for lead and copper during the monitoring period June 1, 2018 through September 30, 2018 for the three year cycle of reduced monitoring. The Respondent was required to submit tap water samples at ten sites for lead and copper analysis under a reduced monitoring schedule, but according to Division records none were submitted. The Division notified the Respondent of the failure to monitor in a letter dated November 27, 2018.

XI.

Division personnel performed a sanitary survey on February 8, 2019 which covered the period from November 2016 through January 2019, and determined that the Respondent had failed to submit any Monthly Operating Reports (“MORs”) since September of 2016 for a total of twenty five (25) MORs. MORs are required to be submitted within ten days after the end of that month. Other violations noted as a part of the survey included:

- 1) Failure to obtain site approval for a new well, turn in design plans for approval of the new well and failure to provide notice to the Division prior to drilling the new well.
- 2) Failure to provide ground water under the influence testing results on well #9.

- 3) Failure to submit an updated Emergency Operations Plan and Drought Management Plan.
- 4) Failure to maintain/repair System infrastructure - well houses in disrepair, no well plug on casing for well #6, damaged casing for well # 1, rodent infestations in wellhead covers, loose cap on well #3 and #5, wellhead for well #10 nearly covered with soil.
- 5) Failure to develop a Revised Total Coliform Rule bacteriological site sampling plan.
- 6) Failure to document disinfection after replacing pumps in wells #5 and #6.
- 7) Failure to test for free chlorine residual at 4 new taps.
- 8) Failure to document flushing activities.
- 9) Failure to document cross connection inspections and failure to provide updated cross connection control plan.
- 10) Failure to provide public notice for monitoring violations for SOCs and the disinfection byproducts HAA5 and TTHM.

The Division notified the Respondent of the violations determined during the survey in a letter dated March 8, 2019.

XII.

Division personnel conducted a file review the week of February 11, 2019, and determined that the Respondent had failed to sample for the radionuclides gross alpha, radium

226 and radium 228 for eight of the nine wells/entry points during the year 2018, which was the assigned sampling year for the nine year compliance period. The System has been allowed to composite the nine well samples into 2 samples (no more than 5 wells can be composited). The Division notified the Respondent of the failure to monitor in a letter dated February 21, 2019.

XIII.

In the course of the investigation, the Division incurred a cost of FOURTEEN DOLLARS AND FIFTY FIVE CENTS (\$14.55) in damages.

VIOLATIONS

XIV.

The Respondent failed to report daily monitoring of chlorine residual at each of the nine well treatment systems for a total of 25 months in the years 2016 through 2018, as required by Tenn. Comp. R. & Regs. 0400-45-01-.40(4)(c)(ii), which states, in pertinent part:

- (ii) A ground water system that serves 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods specified in subparagraph (10)(i) of Rule 0400-45-01-.14 at a location approved by the Department and record the residual disinfection each day that water from the ground water source is served to the public.

XV.

By failing to monitor for the SOCs Atrazine; Simazine; Picloram; and Alachlor during the growing season in 2014, 2015, or 2016 for any of the nine wells/entry points, as a part of the SOC waiver it was granted in the Division's letter on May 9, 2014 and the failure to monitor for Picloram in 2017 for entry points , the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.10(1)(d)1. and (e), which state:

- (d) Monitoring frequency.

1. Each community and non-transient non-community water system shall take four consecutive quarterly samples for each contaminant listed in paragraph (2) of Rule 0400-45-01-.06 during each compliance period beginning with the initial compliance period.

....

- (e) Each community and non-transient water system may apply to the Department for a waiver from the requirement of subparagraph (d) of this paragraph. A system must reapply for a waiver for each compliance period.

Atrazine; Simazine; Picloram; and Alachlor are four of the contaminants listed in subparagraph (2)(a) of Tenn. Comp. R. & Regs. 0400-45-01-.06.

XVI.

By failing to submit to the Division the CCR covering the calendar year 2016 prior to July 1, 2017 and the CCR covering the calendar year 2017 prior to July 1, 2018, the Respondent twice violated Tenn. Comp. R. & Regs. 0400-45-01-.35(2)(b) and Tenn. Comp. R. & Regs. 0400-45-01-.35(5)(c). Tenn. Comp. R. & Regs. 0400-45-01-.35(2)(b) states:

- (b) Each existing community water system must deliver its first report by October 19, 1999, its second report by July 1, 2000, and subsequent reports by July 1 annually thereafter. The first report must contain data collected during, or prior to, calendar year 1998 as prescribed in paragraph (3) of this rule. Each report thereafter must contain data collected during, or prior to, the previous calendar year.

Tenn. Comp. R. & Regs. 0400-45-01-.35(5)(c) states:

- (c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Department, followed within 3 months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Department.

XVII.

By failing to monitor for HAA5 and TTHM in the warmest month of the year in the quarterly compliance period ending September 30, 2017, and the warmest month of the year in the quarterly compliance period ending September 30, 2018, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.36(6)(b)1.(i), which states, in pertinent part:

- (i) Routine monitoring. Systems must monitor at the frequency indicated in the following table:

Routine Monitoring Frequency for TTHM and HAA5 Type of System	Minimum Monitoring Frequency	Sample location in the distribution system
Systems using only ground water not under the direct influence of surface water using a chemical disinfectant and serving fewer than 10,000 persons	One sample per year per treatment plant ² during month of the warmest water temperature.	Locations representing maximum residence time. ¹ If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until system meets criteria for reduced monitoring described in subpart (iv) of this part for reduced monitoring.

XVIII.

By failing to monitor for lead and copper during the compliance period of June 1, 2018 through September 30, 2018, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-

.33(7)(d)4.(iii) and Tenn. Comp. R. & Regs. 0400-45-01-.33(7)(c), which states, in pertinent part:

- (iii) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department under subparagraph (3)(f) of this rule during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the Department.

XIX.

By failing to monitor for the radionuclides gross alpha, radium 226 and radium 228 during the assigned compliance period of the calendar year 2018, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.11(4)(a)3., which states:

- 3. Reduced monitoring: The Department may allow community water systems to reduce the future frequency of monitoring from once every three years to once every six or nine years at each sampling point, based on the following criteria:
 - (i) If the average of the initial monitoring results for each contaminant (i.e., gross alpha particle activity, uranium, radium-226, or radium-228) is below the detection limit specified in this rule, the system must collect and analyze for that contaminant using at least one sample at that sampling point every nine years.

XX.

By failing to submit 25 MORs by the tenth day after the end of the month, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.17(2), which states:

- (2) All community water systems and those non-community water systems classified as a surface source shall compile and maintain accurate daily operating records of the water works system on forms prepared and furnished by the Department. The daily operating records shall be submitted in a timely manner so they are received by the Department no later than ten days after the end of the reporting month. Any

special reports, deemed necessary by the Department to assure continuous satisfactory operation of the water system, shall be submitted to the Department.

XXI.

By failing to obtain site approval for a new well, turn in design plans for approval for the new well and failure to provide notice to the Division prior to drilling the new well or perform monitoring for the new well and the failure to provide ground water under the influence testing results on well #9, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.34(3)(c) and Tenn. Comp. R. & Regs. 0400-45-01-.05(12), which state:

- (c) New PWS wells must receive site approval from the Department before drilling. New well approval is conditioned upon the PWS complying with all applicable drinking water source approval requirements. Approval of new wells by the Division of Water Resources will depend on the ability of the PWS to provide the highest degree of reliable control of the area. The Department may deny its approval for new wells to be put into service if these requirements cannot be met.

Tenn. Comp. R. & Regs. 0400-45-01-.05(12) states:

- (12) Monitoring of new sources - All new surface or ground water sources added to an existing water system or proposed for use by a new water system shall have the required biological and chemical water quality monitoring completed prior to being placed in service. The parameters to be monitored shall be those required for drinking water for the specific type of system involved.

XXII.

By failing to submit an updated Emergency Operations Plan and Drought Management Plan, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.17(7), which states:

- (7) All community water systems shall prepare and maintain an emergency operations plan in order to safeguard the water supply and to alert the public of unsafe drinking water in the event of natural or man-made disasters. Emergency operation plans shall be consistent with guidelines established by the Department and shall be reviewed and approved in writing by the Department. Systems shall include a drought management plan as a part of the emergency operations plan. The emergency operations plan, including the drought management portion, shall

be reviewed, updated, and submitted to the Department at least once every three years.

XXIII.

By failing to maintain System infrastructure, the Respondent has violated Tenn. Comp.

R. & Regs. 0400-45-01-.17(16) and (17), which state:

- (16) All vents on wells, springs, storage tanks, overflows and clearwells shall be properly screened. All overflows on springs and tanks shall be screened and protected.
- (17) All buildings and equipment used in and for the production and distribution of water (to include chemical and other storage buildings) must be well maintained and be reliable and fit for the purpose for which they are used.

XXIV.

By failing to develop a Revised Total Coliform Rule bacteriological site sampling plan, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.41(3)(a)1., which states:

1. Systems must develop a written sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system no later than March 31, 2016. These plans are subject to Department review and revision. Systems must collect total coliform samples according to the written sample siting plan. Monitoring required by paragraphs (4) through (8) of this rule may take place at a customer's premise, dedicated sampling station, or other designated compliance sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of Rule 0400-45-01-.40 must be reflected in the sampling plan.

XXV.

By failing to document disinfection after replacing pumps in wells #5 and #6, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.17(8)(a), which states:

- (8) (a) General-Public water systems, construction contractors, and engineers shall follow and document sanitary practices used in inspecting, constructing or repairing water lines, finished water storage facilities, water treatment facilities, and wells.

XXVI.

By failing to test for free chlorine residual at 4 new taps that were installed, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.17(32), which states:

- (32) New service taps on existing mains that must be uncovered to make the tap, shall be flushed and the free chlorine residual measured and recorded prior to connecting the service lines. These records shall be retained until the next sanitary survey or for three years.

XXVII.

By failing to document flushing activities, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.17(10), which states:

- (10) All community water systems having more than 50 service connections shall establish and maintain an adequate flushing program. The flushing program established shall help ensure that dead end and low usage mains are flushed periodically, drinking water standards are met, sediment and air removal and the free chlorine residual specified under paragraph (4) of this rule is maintained. Records of each flushing are to be maintained by the water system. These records shall include date, time, location, persons responsible and length of flushing. In addition to the above information, the free chlorine residual will have to be measured and recorded on the end of dead end mains after being flushed.

XXVIII.

By failing to document cross connection inspections and failure to provide an updated cross connection control plan, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.17(6)(b), which states, in pertinent part:

- (b) 1. All community water systems must adopt an ordinance or policy outlining the prohibitions in subparagraph (a) of this paragraph and submit a copy of the executed ordinance or policy to the Department for written approval. All community water systems shall develop a written plan for a cross-connection control program to detect and eliminate or protect the system from hazards associated with cross-connections. The written plan must be approved by the Department.

...

4. Community water systems shall ensure that cross-connections between the distribution system and a consumer's plumbing are surveyed and/or inspected and determined not to exist or contain a significant risk or are eliminated or controlled by the installation of an approved backflow preventer commensurate with the degree of hazard.

XXIX.

By the failure to provide public notice after monitoring violations for SOCs and the disinfection byproducts HAA5 and TTHM, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.19(4), which states, in pertinent part:

- (4) Tier 3 Public Notice—Form, manner, and frequency of notice.
 - (a) Which violations or situations require a Tier 3 public notice? Table 0400-45-01-.19(4) lists the violation categories and other situations requiring a Tier 3 public notice.

Table 0400-45-01-.19(4)
Violation Categories and Other Situations Requiring a Tier 3 Public Notice

1. Monitoring violations for the primary drinking water contaminants, except where a Tier 1 notice is required under subparagraph (2)(a) of this rule or where the department determines that a Tier 2 notice is required;

ORDER and ASSESSMENT

XXX.

WHEREFORE, pursuant to the authority delegated by the Commissioner under the provisions of the Safe Drinking Water Act, I, Jennifer Dodd, hereby issue the following Order and Assessment:

- 1.) **The Respondent shall pay a CIVIL PENALTY of NINETEEN THOUSAND EIGHTY DOLLARS (\$19,080.00) to the Division, assessed as follows:**

A. On or before the 31st day after receipt of this Order and Assessment, the Respondent shall pay THREE THOUSAND EIGHT HUNDRED SIXTEEN DOLLARS (\$3,816.00).

- 2.) For the period of two years after the receipt of the Order, the Respondent shall pay ONE HUNDRED FIFTY DOLLARS (\$150.00) for any late submittal of a MOR, payable within 30 days of receipt of the Notice of Violation (“NOV”) and not to exceed a total of THREE THOUSAND SIX HUNDRED DOLLARS (\$3,600.00).
- 3.) For the period of two years after the receipt of the Order, the Respondent shall pay TWO HUNDRED DOLLARS (\$200.00) for any month where the Respondent fails to monitor for chlorine residual and maintain daily worksheets for treated water entering any of the distribution systems, payable within 30 days of receipt of the NOV and not to exceed a total of FOUR THOUSAND EIGHT HUNDRED DOLLARS (\$4,800.00).
- 4.) For the period of two years after the receipt of the Order, the Respondent shall pay ONE THOUSAND DOLLARS (\$1,000.00) for any failure to monitor for HAA5 and TTHM within the distribution systems, payable within 30 days of receipt of the NOV.
- 5.) Before June 30, 2019, the Respondent shall monitor 20 approved locations for lead and copper and shall again monitor for lead and copper at the 20 approved locations between July 1, 2019 and December 31, 2019. The Respondent shall pay SEVEN HUNDRED DOLLARS (\$700.00) for the failure to monitor for lead and copper in either monitoring period, payable

within 30 days of receipt of the NOV and not to exceed a total of ONE THOUSAND FOUR HUNDRED DOLLARS (\$1,400.00).

- 6.) For the period of two years after the receipt of the Order, the Respondent shall pay THREE HUNDRED DOLLARS (\$300.00) for any failure to submit a CCR to the Division by July 1 of each year, payable within 30 days of receipt of the NOV.
- 7.) The Respondent shall monitor for radionuclides in the operating wells. The Respondent shall pay SIX HUNDRED DOLLARS (\$600.00) for the failure to monitor for radionuclides by December 31, 2019, payable within 30 days of receipt of NOV.
- 8.) For a period of two years following the receipt of the Order, the Respondent shall pay THREE HUNDRED TWELVE DOLLARS (\$312.00) for any violation of the failure to perform construction without plans approval, to include drilling of any additional wells without site approval, payable within 30 days of receipt of the NOV.
- 9.) The Respondent shall complete a study for ground water under the direct influence of surface water on well #9 within 6 months of receipt of the Order. The Respondent shall pay FOUR HUNDRED DOLLARS (\$400.00) for the failure to perform the testing, payable within 30 days after the receipt of the NOV.
- 10.) The Respondent shall complete all of the infrastructure maintenance and repair items listed under Subsection L. Maintenance of Equipment, Buildings and Grounds in the sanitary survey letter dated March 8, 2019. Documentation

of completion, including photographs, must be sent to the Manager of the Compliance and Enforcement Unit, State of Tennessee, Division of Water Resources, William R. Snodgrass Bldg., 312 Rosa L. Parks Avenue, 11th Floor, Nashville, TN 37243 with a copy to the Manager of the Knoxville Environmental Field Office, Division of Water Resources, 3711 Middlebrook Pike, Knoxville, TN 37921. The Respondent shall pay FIVE HUNDRED DOLLARS (\$500.00) for the failure to correct the items and submit documentation, payable within 30 days of the receipt of an NOV.

- 11.) The Respondent shall submit a Revised Total Coliform Rule site sampling plan to the Division within 60 days of the receipt of the Order at the addresses listed in item 10. The Respondent shall pay FIVE HUNDRED DOLLARS (\$500.00) for the failure to submit the plan, payable within 30 days of the receipt of an NOV.
- 12.) The Respondent shall pay FIVE HUNDRED DOLLARS (\$500.00) for the failure to perform and document disinfection procedures for line repairs, new lines or taps and pump replacement, including bacteriological sampling, and chlorine residual testing for a period of two years after the receipt of the Order, payable within 30 days of the receipt of an NOV.
- 13.) The Respondent shall perform and document flushing activities within each distribution system annually and submit flushing reports to DWRWater.compliance@tn.gov on August 1, 2019, August 1, 2020 and August 1, 2021. The Respondent shall pay FIVE HUNDRED DOLLARS

(\$500.00) for the failure to submit the report, payable within 30 days of the receipt of an NOV.

14.) The Respondent shall pay FIVE HUNDRED DOLLARS (\$500.00) for the failure to submit an updated cross connection control plan to the addresses listed in item 10 within 45 days of the receipt of the Order, payable within 30 days of the receipt of an NOV.

15.) The Respondent shall pay THREE HUNDRED FIFTY TWO DOLLARS (\$352.00) for the failure to perform and document annual inspections at customer locations with backflow prevention devices.

16.) The Respondent shall pay FOURTEEN DOLLARS AND FIFTY FIVE CENTS (\$14.55) to the Division on or before the THIRTY-FIRST (31st) day of the receipt of this Order for damages to the Division.

The Director may, for good cause shown, extend the compliance dates contained within this Order and Assessment. In order to be eligible for this time extension, the Respondent shall submit a written request to be received a minimum of 30 days in advance of the compliance date. The request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any such extension will be in writing.

Further, the Respondent is advised that the foregoing Order and Assessment is in no way to be construed as a waiver, expressed or implied, of any provision of the law or regulations. However, compliance with the Order and Assessment will be one factor considered in any decision whether to take enforcement action against the Respondent in the future.

Failure to comply with any of the requirements of this Order could lead to further enforcement actions which may include additional civil penalties, assessment of damages and/or recovery of costs.

This Order shall be considered closed no later than December 31, 2021, provided all requirements of the Order have been met; any outstanding penalties have been paid; and Respondent is in substantial compliance with the Safe Drinking Water Act.

RESERVATION OF RIGHTS

In issuing this Order and Assessment, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent(s). The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action(s).

NOTICE OF RIGHTS

Under Tenn. Code Ann. § 68-221-712 and 68-221-713, the Respondent is allowed to appeal this Order and Assessment. To do so, a written petition setting forth the grounds (reasons) for requesting a hearing must be RECEIVED by the Commissioner within THIRTY (30) DAYS of the date the Respondent received this Order and Assessment or this Order and Assessment become final (not subject to review).


If an appeal is filed, an initial hearing of this matter will be conducted by an administrative law judge (“ALJ”) as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-221-714, Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act) and Tenn. Comp. R. & Regs. 1360-04-01 *et seq.* (the Department of State’s Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the Board has the authority to affirm, modify, or deny the Order and Assessment. This includes the authority to modify (decrease or increase) the penalty within the statutory limits of Tenn. Code Ann. § 68-221-713 (from \$50 to \$5,000 per day per violation). Furthermore, the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Any petition for review (appeal) must be directed to the Commissioner of the Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Bldg., 312 Rosa Parks Avenue, 2nd Floor, Nashville, Tennessee 37243. Payments of the civil penalty and/or damages shall be made payable to the “Treasurer, State of Tennessee” and sent to the Division of Fiscal Services -

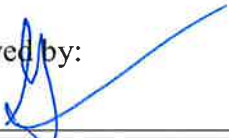
Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Bldg., 312 Rosa Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Jessica Murphy, State of Tennessee, Division of Water Resources, William R. Snodgrass Bldg., 312 Rosa L. Parks Avenue, 11th Floor, Nashville, TN 37243. Attorneys should contact the undersigned counsel of record. **The case number, DWS19-0003, should be written on all correspondence regarding this matter.**

Issued by the Director of the Division of Water Resources, Tennessee Department of Environment and Conservation, on this 18th day of April, 2019.



Jennifer Dodd
Director, Division of Water Resources
TN Department of Environment and Conservation

Reviewed by:



George Bell
BPR # 019051
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
615-741-3842
George.bell@tn.gov