

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

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<b>IN THE MATTER OF:</b>	)	<b>DIVISION OF WATER POLLUTION</b>
	)	<b>CONTROL</b>
<b>LENOIR CITY AND LENOIR CITY</b>	)	
<b>UTILITIES BOARD</b>	)	
	)	
<b>RESPONDENTS</b>	)	<b>CASE NUMBER 05-0629</b>

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**ORDER AND ASSESSMENT**

NOW COMES James H. Fyke, Commissioner of the Tennessee Department of Environment and Conservation, and states:

**PARTIES**

**I.**

James H. Fyke is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation (hereinafter the "Department").

**II.**

The City of Lenoir City (hereinafter "Respondent LC") is a municipality in Loudon County, Tennessee. Respondent LC created the Lenoir City Utilities Board, which owns and operates a wastewater treatment plant (WWTP) located at 200 Depot Street, Lenoir City, Tennessee. Service of process may be made on Respondent LC through the Honorable Matt Brookshire, Mayor, P.O. Box 445, Lenoir City, Tennessee 37771.

### **III.**

The Lenoir City Utilities Board (hereinafter "Respondent LCUB") is a public utility serving parts of Loudon, Knox, and Roane Counties in Tennessee. Respondent LCUB owns and operates a wastewater treatment plant (WWTP) located at 200 Depot Street, Lenoir City, Tennessee. Service of process may be made on Respondent LCUB through Fred Nelson, General Manager at P.O. Box 449, Lenoir City, Tennessee 37771.

### **JURISDICTION**

### **IV.**

Whenever the Commissioner has reason to believe that a violation of Tennessee Code Annotated (T.C.A.) Section 69-3-101 *et seq.*, the Water Quality Control Act, (hereinafter the "Act") has occurred, or is about to occur, the Commissioner may issue a complaint to the violator and the Commissioner may order corrective action be taken pursuant to T.C.A. §69-3-109(a) of the Act. Further, the Commissioner has authority to assess civil penalties against any violator of the Act, pursuant to T.C.A. §69-3-115 of the Act; and to assess damages incurred by the state resulting from the violation, pursuant to T.C.A. §69-3-116 of the Act. The Water Quality Control Board has promulgated rules governing general water quality criteria, and use classifications for surface waters have been promulgated pursuant to T.C.A. §69-3-105 and are effective as the *Official Compilation Rules and Regulations of the State of Tennessee*, Chapters 1200-4-3 and 1200-4-4 ("Rule").

## V.

Respondent LC and Respondent LCUB (hereinafter the “Respondents”) are each classified as a “person” as defined at T.C.A. §69-3-103(20). As hereinafter stated, the Respondents have violated the Act.

## VI.

T.C.A. § 69-3-108 requires that a person obtain a permit from the Department prior to discharges into waters of the state. Rule 1200-4-5-.08 states in part that a set of effluent limitations will be required in each permit that will indicate adequate operation or performance of treatment units used, and that appropriately limit those harmful parameters present in the wastewater. Furthermore, it is unlawful for any person to increase the volume or strength of any wastes in excess of the permissive discharges specified under any existing permit.

## FACTS

## VII.

On March 30, 2001, the Division of Water Pollution Control (hereinafter the “Division”) reissued a National Pollutant Discharge Elimination System (hereinafter “NPDES”) Permit, TN0020494 (hereinafter the “permit”), to Respondent LCUB. The permit became effective on May 1, 2001, and expires on March 30, 2006. The permit authorizes Respondent LCUB to discharge treated municipal wastewater to the Tennessee River at mile 600.1, in accordance with effluent limitations, monitoring requirements and other conditions established in the permit.

Further, the permit states that the collection system shall be operated in a manner so as to avoid overflows. No new or additional flows shall be added upstream of any point in the

collection system, which experiences chronic overflows (greater than 5 events per year) or would otherwise overload any portion of the system.

### **VIII.**

The Tennessee River is “waters of the state,” as defined by T.C.A. § 69-3-103(33). Pursuant to T.C.A. §69-3-105(a)(1), all waters of the state have been classified by the Tennessee Water Quality Control Board for suitable uses. Department Rule 1200-4-4, Use Classifications for Surface Waters, is contained in the Rules of Tennessee Department of Environment and Conservation, Division of Water Pollution Control Amendments. Accordingly, the Tennessee River is classified for the following uses: domestic water supply, industrial water supply, fish and aquatic life, recreation, irrigation, livestock watering and wildlife, and navigation. The Tennessee River at mile 600.1 is not supportive of its designated use classifications due to organic enrichment/low dissolved oxygen, flow alteration and PCB’s from upstream impoundment and contaminated sediments.

### **IX.**

On November 23, 2004, Division personnel conducted a Compliance Evaluation Inspection (CEI) at the Respondents’ WWTP. The WWTP was found to be in overall good condition. However, the records showed some collection system overflows had been reported during the latest calendar year.

**X.**

On August 22, 2005, Division personnel conducted a CEI at the Respondents' WWTP. On the day of the inspection the trickling filter was not operating as designed. During the file review it was noted that permit violations had been reported for the latest calendar year.

**XI.**

The Respondents reported to the Division the following NPDES permit parameter violations for the reporting period August 2003 through December 2005: 40 violations of biochemical oxygen demand limits, 1 violation of dissolved oxygen limits, 1 violation of fecal coliform limits, 26 violations of total suspended solids limits, and 12 overflows.

**VIOLATIONS**

**XII.**

By discharging wastewater effluent in violation of the terms and conditions the NPDES permit and by discharging wastewater from a location other than a permitted outfall, as stated above, the Respondents have violated T.C.A. §§69-3-108(a), T.C.A. §§69-3-108(b)(1),(2), (3),(5) and (6) and 69-3-114(b), which states in-part:

T.C.A. §69-3-108

- (a) Every person who is or is planning to carry on any of the activities outlined in subsection (b), other than a person who discharges into a publicly owned treatment works or who is a domestic discharger into a privately owned treatment works, or

who is regulated under a general permit as described in subsection (j), shall file an application for a permit with the commissioner or, when necessary, for modification of such person's existing permit.

- (b) It is unlawful for any person, other than a person who discharges into a publicly owned treatment works or a person who is a domestic discharger into a privately owned treatment works, to carry out any of the following activities, except in accordance with the conditions of a valid permit:
  - (1) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state;
  - (2) The construction, installation, modification, or operation of any treatment works, or part thereof, or any extension or addition thereto;
  - (3) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing perm
  - (5) The construction or use of any new outlet for the discharge of any wastes into the waters of the state;
  - (6) The discharge of sewage, industrial wastes, or other wastes into water, or a location from which it is likely that the discharged substances will move into waters;

T.C.A. §69-3-114

- (b) It shall be unlawful for any person to act in a manner or degree, which violates any provision of this part or of any rule, regulation, or standard of water quality

promulgated by the board or of any permits or orders issued pursuant to the provisions of this part.

## **ORDER AND ASSESSMENT**

### **XIII.**

WHEREFORE, pursuant to the authority vested by T.C.A. §§69-3-107, 69-3-109, 69-3-115 and 69-3-116, I, James H. Fyke, hereby issue the following ORDER AND ASSESSMENT to the Respondents:

1. The Respondents shall, within 90 days of receipt of this ORDER, submit, for review and approval, a WWTP-corrective action plan/engineering report (WWTP-CAP/ER) that identifies the causes related to the violations of the permit parameter limits at the WWTP and a corrective action plan containing the proposed engineering solution necessary to comply with the subject permit. The WWTP-CAP/ER shall include, but not be limited to, modifications to equipment or operation necessary to comply with discharge limits established by the permit. The WWTP-CAP/ER must include milestone dates for implementation and, once the WWTP-CAP/ER is approved in writing by the Division, those dates shall become enforceable. The Respondents shall submit the WWTP-CAP/ER to the Enforcement and Compliance (E&C) Section, Division of Water Pollution Control, at 401 Church Street, 6<sup>th</sup> Floor L&C Annex, Nashville, Tennessee 37243-1534 for review and approval, and shall submit a copy to the Knoxville-Environmental Field Office (K-EFO), Division of Water Pollution Control, at Suite 220 – State Plaza, 2700 Middlebrook Pike, Knoxville, Tennessee 37921.

2. The Respondents shall initiate the actions outlined above, including those items required by the Division as comments in the approval of the WWTP-CAP/ER, within 60 days of written approval by the Division of the WWTP-CAP/ER. At the time of initial action on the WWTP-CAP/ER, the Respondents shall notify the Division in writing of this action. This written notification shall be submitted to the E&C Section and copied to the K-EFO, at the respective addresses shown in item 1, above.
  
3. All scheduled activities in the approved WWTP-CAP/ER shall be complete and the Respondents shall be in compliance with the permit by June 30, 2008. A notice of completion should be sent to the E&C Section and copied to the K-EFO, at the respective addresses shown in item 1, above. The notice of completion will be considered late if not received by the Division on or before June 30, 2008.
  
4. Within 90 days of receipt of this ORDER, the Respondents shall submit to the Division for approval and comment a sewer overflow response plan (hereinafter "SORP"). The original SORP shall be submitted to the E&C Section. The Respondents shall submit a copy of the SORP to the K-EFO. The SORP shall include procedures for minimizing health impacts and shall include measures to be taken when overflows occur. The SORP shall also include appropriate measures for notification of affected property owners and stream users, and shall include the news media when necessary to protect public health. The SORP shall provide for the event that untreated wastewater is discharged to waters of the state by sanitary sewer overflows (hereinafter "SSOs"), thereupon the Respondents



shall have specific procedures for notifying known downstream users. These procedures shall include, but are not limited to, provisions for posting warning signs at places where the general public could gain access to polluted waters. Further, those posted signs shall remain in place until in-stream monitoring reveals that the body of water has returned to normal background conditions.

5. Within 60 days of written approval of the SORP by the Division, the Respondents shall fully implement the SORP, or within 60 days of written requirement for modification of the SORP by the Division, the Respondents shall resubmit the SORP with the required changes. The Respondents shall notify the Division, by letter, to the Enforcement and Compliance Section when the SORP has been fully implemented. The Respondents shall send a copy of the letter to the K-EFO.
  
6. Within 180 days of receipt of this ORDER, the Respondents shall prepare a Sanitary Sewer Overflow Evaluation Report (hereinafter "SSOER") evaluating each overflow that occurred during the timeframe of January 1, 2004, through December 31, 2005.
  - (a) The Respondents shall make the SSOER available to the public for review and comment prior to submitting the SSOER to the Division. The Respondents shall maintain the SSOER as a public document and invite public review and comment by advertising in the local newspapers and posting on the internet. The Respondents shall receive and compile public comments over a 60-day period. These comments shall be incorporated into the SSOER as the Respondents deems appropriate and all

- public comments received by the Respondents shall be kept in a permanent file and made available to the Division upon request.
- (b) Within 30 days of the close of the public comment period, the SSOER shall be submitted to the E&C Section for review, comment, and approval. The Respondents shall submit a copy of the SSOER to the K-EFO.
  - (c) If the Division determines that the language of the SSOER must be altered, the Respondents shall incorporate the Division's written comments into the SSOER within 30 days of receipt and resubmit the SSOER for the Division's approval.
  - (d) The Respondents shall begin maintaining the approved SSOER as a public document no later than 60 days after the Respondents receive written approval from the Division of the SSOER. The approved SSOER shall be maintained by the Respondents until such time that it is replaced by the annual update to the SSOER as described in item 10, below.
  - (e) The SSOER shall analyze the specific cause(s) of each sanitary sewer overflow and shall categorize the cure for each overflow into short-term controls, long-term planning and remediation, or both if necessary. The SSOER shall include a listing of all sanitary sewer overflow locations, including addresses, manhole and line unit identification numbers, basin, sub-basin, mini-system, date(s) of each overflow, specific cause(s) of each overflow, and estimated volumes for each event. Overflow locations which have been placed on the short-term controls list and which have demonstrated occurrences of two or more overflow events during the evaluation cycle of January 1, 2005, through December 31, 2005, must be identified on the long-term planning and remediation list and may also be placed on the short-term controls list.

This would be appropriate if short-term actions are underway or planned to occur within the next 24 months from the date of submittal of the SSOER. Items which are placed only on the short-term list, and which are not on the long-term list, must be accompanied by a description of the measure(s) and associated time frames or schedules for conducting activities necessary to prevent further overflows at each particular location.

7. Within 12 months from receipt of the Division's written approval of the SSOER, the Respondents shall submit to the Division for approval, a Sanitary Sewer Overflow-Corrective Action Plan/Engineering Report (hereinafter "SSO-CAP/ER"), for the elimination of recurring overflows at all overflow locations identified in the long-term planning and remediation list of the SSOER and an infiltration/inflow (I&I) reduction plan. In the event the Division requires changes to the SSO-CAP/ER, the Respondents shall make the required modifications to the SSO-CAP/ER and resubmit for approval by the Division within 60 days of such notice. The SSO-CAP/ER shall identify the chosen actions that will be implemented to eliminate the SSO(s) and any other alternatives considered as a part of the Respondents' analysis. A project schedule shall be included with the SSO-CAP/ER and shall include timetables for beginning and completing all activities. All scheduled activities shall be complete and SSO(s) shall be eliminated by January 1, 2010. The Respondents shall submit the original SSO-CAP/ER to the E&C Section and a copy to K-EFO. Prior to submittal to the Division, the Respondents shall make a copy of the SSO-CAP/ER available to the public for inspection and comment in the same manner as the SSOER as described in this ORDER in item 6, above. The SSO-

CAP/ER shall include, at minimum, projects currently under construction, projects planned for construction currently identified in capital improvement plans which are consistent with the SSO-CAP/ER, pertinent flow measurement data, and a map clearly identifying the project locations. The Respondents shall make available to the Division for review/inspection/copying at Respondents' offices any additional information in its possession that may be of use to the Division in assessing or evaluating the SSO-CAP/ER.

8. Within 120 days of receipt of this Order, the Respondents shall submit a written summary of the elements of its capacity, management, operations, and maintenance (CMOM) program. The Respondents shall document existing activities that are a part of the program or, if necessary, shall develop and implement new activities that are to be a part of the program. The CMOM program will address the following elements:
  - (a) Identification of major goals of the CMOM program.
  - (b) Identification of the person or position responsible for implementing each of the elements of the CMOM program.
  - (c) Procedures for training of appropriate personnel on a regular basis regarding elements of the CMOM program.
  - (d) Identification of the means by which the mapping of the collection and transmission system is accomplished and maintained.
  - (e) Physical inspection and testing procedures.
  - (f) Preventive and routine maintenance procedures.

- (g) Procedures for the maintenance of right-of-ways and easements for the sanitary sewer lines.
  - (h) Inventory management system.
  - (i) Program and procedures to identify and prioritize structural deficiencies and implementation of short term and long-term rehabilitation actions to address identified deficiencies.
  - (j) Requirements and standards for the installation of new sewers, pumps and other appurtenances and rehabilitation and repair projects.
  - (k) Procedures and specifications for inspecting and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects.
  - (l) Implementation of an identification system for all potential overflow points (POPs) in the collection system. The system should identify the specific line that the POPs are on and should reflect the proximity of the POPs to other POPs on that line.
  - (m) Procedures to update CMOM program elements as appropriate.
  - (n) Procedures to modify the written summary of the CMOM program as appropriate.
9. The Respondents shall submit an Annual CMOM Program Status Report to the E&C Section and submit a copy to the K-EFO on or before September 1 each year, beginning September 1, 2006, and ending September 1, 2010. The Annual CMOM Program Status Report shall describe the Respondents' activities regarding the CMOM implementation during the preceding calendar year. The initial Annual CMOM Program Status Report, due September 1, 2006, will cover activities from July 1, 2005, through June 30, 2006. The Annual CMOM Program Status Report shall include, at a minimum, the following

elements.

- (a) Overview of the Respondents' one-year and five-year capital planning process.
- (b) Overview and summary of the implementation and effectiveness of the CMOM program.
- (c) Summary of CMOM related capital improvement projects undertaken for the preceding fiscal year.
- (d) Summary of CMOM related capital improvement projects identified, but not yet undertaken.
- (e) Description of completed, ongoing and planned pump station projects.
- (f) Description of the Respondents' community outreach efforts related to the CMOM program.
- (g) Description of planned changes to the CMOM program and the system capacity assurance program, with rationalization for the changes.

10. Beginning September 1, 2007, and continuing through September 1, 2010, the Annual CMOM Program Status Report shall also include an updated SSOER for the preceding fiscal year (July 1 through June 30). This SSOER and subsequent SSOERs shall be maintained as a public document and include all components described in item 6, above.

11. Within 12 months of receipt of this Order, the Respondents shall develop and maintain capacity, collection, and treatment evaluation protocols. These protocols shall include, but not be limited to, standard design flow rate assumptions (regarding pipe roughness, manhole head losses, "as-built" drawing accuracy [distance and slope], and water use

[gallons per capita per day]), and projected flow impact modeling/calculation techniques. The program shall provide for certification of adequate capacity by a registered professional engineer. The program shall include an information management system for tracking the cumulative studies and relating studies to the I&I reduction program.

12. Within 30 days of receipt of this Order, the Respondents shall develop and implement a procedure whereby any new construction to be connected to the collection system is reviewed and approved by a registered professional engineer. When the capacity, collection, and treatment evaluation protocols required under item 11, above, are developed and maintained, the requirements of this paragraph are void.

13. The Respondents shall pay a CIVIL PENALTY of ONE HUNDRED FIFTY SIX THOUSAND DOLLARS (\$156,000.00) to the Division, hereby ASSESSED to be paid as follows:

(a) The Respondents shall, within 30 days of receipt of this ORDER, pay a CIVIL PENALTY in the amount of THIRTY THOUSAND DOLLARS (\$30,000.00).

In lieu of the payment of THIRTY THOUSAND DOLLARS (\$30,000.00) of the assessed CIVIL PENALTY, the Respondents may propose Supplemental Environmental Projects (hereinafter "SEP(s)") with at least a value of SIXTY THOUSAND DOLLARS (\$60,000). Any such proposed SEP(s) must be submitted, in writing, to the Department's Director of Water Pollution Control (hereinafter the

“Director”) within 30 days of receipt of this ORDER.

The written proposal must include an estimate of the anticipated cost of the project(s). Before implementing any proposed SEP(s), the SEP(s) must be approved, in writing, by the Director. In the event that one or more of the proposed SEP(s) are not approved, the Director may extend the time in which to submit an alternative SEP(s) proposal. If no extension of time is requested or granted, Respondents shall pay the above assessed CIVIL PENALTY within sixty 60 days of receipt of the Director’s letter denying the SEP(s).

To receive credit against the CIVIL PENALTY for any approved SEP(s), the Respondents must provide documentation to the Director of the actual costs expended on each SEP(s). The value credited against the CIVIL PENALTY for any approved SEP(s) will be determined by the Director. In the event that the Respondents fail to propose SEP(s) within sixty 60 days of the issuance of this ORDER, the THIRTY THOUSAND DOLLARS (\$30,000.00) CIVIL PENALTY will become due and payable immediately.

- (b) If, and only if, the Respondents fail to comply with item 1 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.



- (c) If, and only if, the Respondents fail to comply with item 2 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.
- (d) If, and only if, the Respondents fail to comply with item 3 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of FOURTEEN THOUSAND DOLLARS (\$14,000.00), payable within 30 days of default.
- (e) If, and only if, the Respondents fail to comply with item 4 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.
- (f) If, and only if, the Respondents fail to comply with item 5 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.
- (g) If, and only if, the Respondents fail to comply with item 6 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.
- (h) If, and only if, the Respondents fail to comply with item 7 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.

- (i) If, and only if, the Respondents fail to comply with item 8 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TWELVE THOUSAND (\$12,000.00), payable within 30 days of default.
- (j) If, and only if, the Respondents fail to comply with item 9 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TWO THOUSAND DOLLARS (\$2,000.00) per report, not to exceed a total of TEN THOUSAND DOLLARS (\$10,000.00) for all five reports, payable within 30 days of default.
- (k) If, and only if, the Respondents fail to comply with item 10 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TWO THOUSAND DOLLARS (\$2,000.00) per report, not to exceed a total of TEN THOUSAND DOLLARS (\$10,000.00) for all five reports, payable within 30 days of default.
- (l) If, and only if, the Respondents fail to comply with item 11 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.
- (m) If, and only if, the Respondents fail to comply with item 12 above in a timely manner, the Respondents shall pay a CIVIL PENALTY in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable within 30 days of default.

14. The Respondents shall otherwise conduct business in accordance with the Act and rules promulgated pursuant to the Act.

The Department reserves the right to request modifications to any of the scheduled requirements of this ORDER, as deemed necessary by the Director to achieve compliance with the Act. Requests by Respondents for any such modifications shall be submitted to the Director within the time frame to be determined by the Division. The Director may, for good cause shown, extend for a fixed time period, the compliance dates contained within this ORDER. In order to be eligible for this time extension, the Respondents shall submit a written request to be received in advance of the compliance date. The written 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 by the Division will be in writing. Should the Respondents fail to meet the requirement by the extended date, any associated Civil Penalty shall become due 30 days thereafter.

## **NOTICE OF RIGHTS**

Tennessee Code Annotated §§ 69-3-109 and 69-3-115, allow the Respondent to secure review of this ORDER AND ASSESSMENT. In order to secure review of this ORDER AND ASSESSMENT, the Respondent must file with the Commissioner at the address below a written petition setting forth each of the Respondent's contentions and requesting a hearing before the Water Quality Control Board. The Respondent must file the written petition within thirty (30) days of receiving this ORDER AND ASSESSMENT.

If the required written petition is not filed within thirty (30) days of receipt of this ORDER AND ASSESSMENT, the ORDER AND ASSESSMENT shall become final and will be considered as an agreement to entry of a judgment by consent. Consequently, the ORDER AND ASSESSMENT will not be subject to review pursuant to Tenn. Code Ann. §§ 69-3-109 and 69-3-115.

Any hearing of this case before the Water Quality Control Board for which a Respondent properly petitions is a contested case hearing governed by T.C.A. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act) and the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies. The hearing is in the nature of a trial before the Board sitting with an Administrative Law Judge. The Respondent may subpoena witnesses on its behalf to testify.

If the Respondent is an individual, the Respondent may either obtain legal counsel representation in this matter, both in filing its written petition and in presenting evidence at the hearing, or proceed without an attorney. Low-income individuals may be eligible for representation at no cost or reduced cost through a local bar association or legal aid organization.

It is the Department's position that 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 proceeding to the extent allowed by law.

Issued by the Commissioner of the Tennessee Department of Environment and Conservation on this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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James H. Fyke, Commissioner

Tennessee Department of Environment and Conservation

Payment of the civil penalty shall be made to the "Treasurer, State of Tennessee" and should be sent to the "Division of Fiscal Services, Consolidated Fee Unit, Tennessee Department of Environment and Conservation, 14<sup>th</sup> Floor L&C Tower, 401 Church Street, Nashville, Tennessee 37243. Please direct all correspondence and other communications regarding this matter to, Wilson S. Buntin, Office of General Counsel, Tennessee Department of Environment and Conservation, 20th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243-1548, Telephone (615) 532-0131. You should write your case number, 05-0629, on all payments and all correspondence concerning this matter.

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Wilson S. Buntin, BPR #023231