

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

IN THE MATTER OF:)	DIVISION OF WATER RESOURCES
)	
)	
TENNESSEE DEPARTMENT OF CORRECTION,)	TURNEY CENTER INDUSTRIAL COMPLEX
)	
RESPONDENT.)	CASE NO. DWS20-0028

CONSENT ORDER AND ASSESSMENT

This CONSENT ORDER & ASSESSMENT is entered into between the Tennessee Department of Environment and Conservation (the “Department”) and the Tennessee Department of Correction (the “Respondent”) for the purpose of resolving the issues set forth herein. The parties stipulate and agree as follows:

PARTIES

I.

David W. Salyers, P.E. is the duly appointed Commissioner of the Department. The Commissioner is responsible for administering the Safe Drinking Water Act, Tenn. Code Ann. §§ 68-221-701 to -720 (the “Act”).

II.

The Tennessee Department of Correction (the “Respondent”) is a political subdivision of the State of Tennessee. The Respondent operates the Turney Center Industrial Complex which operates and/or controls a community public water system (the “System”) existing in Hickman County, Tennessee. The System’s Public Water System Identification (PWSID) number is TN0000533. Process may be served on the Respondent through Commissioner Tony C. Parker at Tennessee Department of Correction, 320 Sixth Avenue North, Nashville, Tennessee 37243-0645.

JURISDICTION

III.

Whenever the Commissioner has reason to believe that a violation of the Safe Drinking Water Act, Tenn. Code Ann. §§ 68-221-701 to -720 (“Act”), has occurred, is occurring, or is about to occur, the Commissioner may order corrective action be taken. Tenn. Code Ann. §§ 68-221-705 and 68-221-712. Further, the Commissioner has authority to assess civil penalties against any violator of the Act. Tenn. Code Ann. §§ 68-221-705 and 68-221-713. The Commissioner also has authority to assess damages incurred by the State resulting from the violation. Tenn. Code Ann. §§ 68-221-713. The Board of Water Quality, Oil and Gas has promulgated rules governing operation of public water systems. Tenn. Comp. R. & Regs. (“Rule[s]”) Chapter 0400-45-01. The Commissioner may delegate to the Director any of the powers, duties, and responsibilities of the Commissioner under the Act. Tenn. Code Ann. § 68-221-705(12). David W. Salyers, P.E., Commissioner of the Department of Environment and Conservation, has delegated such authority to Jennifer Dodd.

IV.

The Respondent is a “person,” Tenn. Code Ann. § 68-221-703(17), and a “supplier of water” under the Act, Tenn. Code Ann. § 68-221-703(22), because it owns, operates, and/or controls a “public water system,” Tenn. Code Ann. § 68-221-703(19). The System is a “community water system.” Tenn. Comp. R. & Regs. 0400-45-01-.04(11).

FACTS

V.

The Respondent obtains its source water from the Duck River. The Respondent serves 11 connections and a population of approximately 1,558 persons. The System is classified as a Subpart H system, which includes systems using surface water sources. The Respondent provides treatment by disinfection via chlorination and uses conventional filtration.

VI.

Division personnel conducted file reviews during the week of October 16, 2017, January 15, 2018, October 14, 2019, January 13, 2020, and April 13, 2020, and determined for the quarterly compliance periods ending September 30, 2017, December 31, 2017, September 30, 2019, December 31, 2019, and March 31, 2020, that the Respondent failed to maintain drinking water below the Maximum Contaminant Level (MCL) for the disinfection byproduct Total Trihalomethanes (TTHM). The MCL is set on the locational running annual average (LRAA) for TTHM at each monitoring site, calculated as the average of sample analytical results for samples taken at that monitoring location during the previous four calendar quarters. The LRAA MCL for TTHM is 0.080 mg/L.

Site 201 of the Turney Center Industrial Complex returned an LRAA MCL TTHM result of 0.085 mg/L for the third quarter of 2017, 0.084 mg/L for the fourth quarter of 2017, 0.090 mg/L for the third quarter of 2019, 0.088 mg/L for the fourth quarter of 2019, and 0.083 mg/L for the first quarter of 2020. The Division notified the Respondent of the violations in letters dated October 26, 2017, (third quarter 2017 violation), January 26, 2018, (fourth quarter 2017 violation), October 24, 2019, (third quarter 2019 violation) and January 21, 2020, (fourth quarter 2019 violation) and April 24, 2020, (first quarter 2020 violation).

VII.

Significant progress has been made by the Respondent to bring the System into compliance and to maintain TTHM levels below 0.080 mg/L. The Respondent has hired a new plant operations contractor and engaged an engineering firm to evaluate plant design, plant operations, and the distribution system. Actions completed to date include but are not limited to: decreased detention time in the storage tanks; forced turnover in the storage tanks; distribution system flushing; sedimentation basin and plate settler cleaning; and plant design evaluation. These actions, along with others, have allowed the operator to maintain compliance with TTHM local running annual averages. Additionally, potential modifications to plant operations to further reduce TTHM in the treated water have been developed and are being evaluated these include a) reduction of TOC during water treatment by enhanced coagulation and b) changes to the injection point of chlorine disinfectant. The respondent has incurred costs of approximately \$20,000.00 thus far to return to compliance.

VIOLATIONS

VIII.

By failing to maintain TTHM LRAA levels below the MCL for the third quarter and fourth quarter of 2017, the third and fourth quarter of 2019 and the first quarter of 2020, the Respondent violated Rule 0400-45-01-.06(6)(b)2(i), which states:

2. LRAA compliance (Rule 0400-45-01-.38)
 - (i) Compliance dates. The Stage 2 Disinfection Byproducts Requirements (LRAA) MCLs for TTHM and HAA5 must be complied with as a locational running annual average (LRAA) at each monitoring location beginning the date specified for Stage 2 Disinfection Byproducts Requirements (LRAA) compliance in subparagraph (1)(c) of Rule 0400-45-01-.38.

Disinfection by-product	MCL (mg/L)
Total trihalomethanes (TTHM)	0.080
Haloacetic acids (five) (HAA5)	0.060

CONSENT ORDER and ASSESSMENT

IX.

Pursuant to the authority vested by sections 68-221-705 and 68-221-712 of the Act, I, Jennifer Dodd, and the Respondent agrees, as follows below. All documentation relating to compliance schedule items in this Order should be submitted electronically to DWRWater.Compliance@tn.gov or in duplicate to the addresses listed below:

Sherry Glass, Manager
Columbia Environmental Field Office
Division of Water Resources
1421 Hampshire Blvd.
Columbia, Tennessee 38401

AND

Jessica Murphy, Manager
Compliance and Enforcement Unit
Division of Water Resources
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Ave., 11th Floor
Nashville, Tennessee 37243

- (1) The Respondent is hereby assessed a civil penalty of \$5,520.00 to be paid to the following address:

Treasurer, State of Tennessee
Division of Fiscal Services, Consolidated Fees
TN Department of Environment and Conservation
William R. Snodgrass Tennessee Tower,
312 Rosa L. Parks Ave., 10th Floor
Nashville, Tennessee 37243

The case number, **DWS20-0028**, should be written on all correspondence regarding this matter.

The payment shall be structured as follows:

- a. The Respondent shall pay an upfront penalty of \$720.00 to the Division on or before the 31st day of the receipt of this Order.
 - b. The Respondent shall pay contingent penalties of \$4,800.00 based on requirements of Items 2 through 6 below.
- (2) Within 60 days of the receipt of this Order, the Respondent shall submit a plan for a 120-day plant and distribution system optimization study (“the Study”) that characterizes water

quality in relation to disinfection byproducts through the treatment plant and the entire distribution system. The Study must evaluate optimizing plant operations, including Total Organic Carbon reduction through the plant, as well as water age within the distribution system and storage tank turnover and mixing. As a part of the Study, the Respondent shall begin monthly sampling at a minimum of 4 additional sites to monitor chlorine residual, pH, and temperature representative of the overall distribution system. The monitoring points for the additional monthly sampling cannot be the same as taken under the existing TTHM sample siting plan. The Study must include maps to show any spatial trends in the monitoring points. The Respondent shall have 30 days to respond to any amendments requested by the Division. The Respondent shall pay \$200.00 to the Division if the Respondent fails to timely submit the Study to the Division for approval or fails to timely submit any required amendments, payable within 30 days of receipt of a notice of violation.

- (3) Once the Study plan is approved, the Respondent shall complete the Study within 120 days and submit the information to the Division within 30 days thereafter. The Respondent shall pay \$300.00 to the Division if the Respondent fails to timely submit the Study results to the Division, payable within 30 days of receipt of a notice of violation.
- (4) The Respondent shall submit a Corrective Action Plan (CAP) detailing all actions required to provide customers with drinking water below the LRAA MCL for Haloacetic Acids 5 (HAA5) and TTHM to the Division for approval within 60 days of the completion of the Study plan. Upon approval of the CAP, the milestone dates and items contained within the CAP shall become an enforceable part of this Order. The Respondent shall make changes to the CAP, if required by the Division, within 30 days of notification of deficiency, and submit the revisions in duplicate to the addresses listed above. The CAP must address

optimizing water age, storage tank mixing, and maintaining a low tank turnover time (fewer than five days) at all times or establish/maintain a tank-specific turnover rate. The CAP must also address unidirectional flushing based on low chlorine residuals in the distribution system at optimum velocity for scouring. The Respondent shall pay \$500.00 to the Division if the Respondent fails to timely submit the CAP to the Division for approval or fails to timely submit any required revisions, payable within 30 days of receipt of the notice of violation.

- (5) The Respondent shall fully implement the Division-approved CAP within one year of receipt of such approval, and send notice of CAP implementation to the Division at the addresses listed above no later than 30 days after completion of the CAP. The Respondent shall pay \$2,600.00 for the failure to implement the CAP within the required timeframe, payable within 30 days of receipt of the notice of violation.
- (6) The Respondent shall pay \$150.00 for each quarterly exceedance of the LRAA HAA5 MCL or LRAA TTHM MCL, not to exceed a total of \$1,200.00, payable within 30 days of receipt of the notice of violation.

The Director of the Division may, for good cause shown, extend the compliance dates contained within this Consent Order and Assessment. In order to be eligible for this time extension, the Respondent 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 Director will be in writing. Should the Respondent fail to meet the requirement by the extended date, an associated Civil Penalty shall become due 30 days thereafter.

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

This Consent Order and Assessment shall be considered closed no later than August 31, 2022, provided all requirements of the Consent Order and Assessment 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 Consent 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. 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).

WAIVER OF RIGHT TO APPEAL

The Respondent understands that it has the right to appeal this Consent Order and Agreement pursuant to sections Tenn. Code Ann. §§ 68-221-712 and -713 of the Act. By signing below, the Respondent knowingly and voluntarily waives any right it may have to appeal this Consent Order and Assessment.

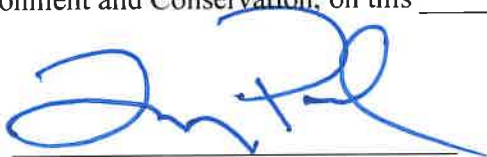
AUTHORITY TO SIGN

The undersigned representatives of the Department and the Respondent hereby represent and warrant that they are fully authorized and competent to execute this Consent Order and Agreement on behalf of the entity for which they are signing.

RESPONDENT’S RESERVATION OF RIGHTS

The Respondent does not admit or deny the factual allegations or the alleged violations of law contained in this Consent Order and Assessment. The Respondent reserves its rights to contest the factual allegations and alleged violations contained in this Consent Order and Assessment in any proceeding other than a proceeding brought by the Department to enforce the terms of this Consent Order and Assessment.

Executed by the Director of the Division of Water Resources, Tennessee Department of Environment and Conservation, on this 7th day of December, 2020.



Tony C. Parker, Commissioner
Tennessee Department of Correction


Jennifer Dodd (Dec 7, 2020 17:04 CST)

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

Reviewed by:



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