

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

IN THE MATTER OF:)	DIVISION OF WATER RESOURCES
)	
CITY OF SPRING HILL,)	
)	
RESPONDENT.)	CASE NO. WPC25-0093

CONSENT ORDER AND ASSESSMENT

The Department of Environment and Conservation (“Department”) and the City of Spring Hill (“Respondent”) enter this Consent Order and Assessment (“Order”) for the purpose of resolving the issues set forth herein. The Department alleges as follows:

PARTIES

I.

The Commissioner is responsible for administering and enforcing the Water Quality Control Act, Tenn. Code Ann. §§ 69-3-101 to -148 (Act). Pursuant to Section 402(b) of the Clean Water Act (CWA) and 40 C.F.R. part 123, the United States Environmental Protection Agency has delegated authority to the State of Tennessee to administer the State NPDES Permit and State Pretreatment Programs.

II.

The City of Spring Hill (“Respondent”) owns and operates a publicly owned wastewater treatment plant known as the Water Reclamation Facility (WRF) in Maury County at 3893 Mahlon Moore Road, Spring Hill, TN 37174 (“Site”). Process may be served on the Respondent through the Honorable Matt Fitterer, Mayor of the City of Spring Hill, at 199 Town Center Parkway, Spring Hill, TN 37174.

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 may issue a complaint to the violator and the Commissioner may order that the violator take corrective action. Tenn. Code Ann. § 69-3-109(a). Further, the Commissioner has authority to assess civil penalties against any violator of the Act, Tenn. Code Ann. § 69-3-115, and has authority to assess damages incurred by the state resulting from the violation, Tenn. Code Ann. § 69-3-116. The Board of Water Quality, Oil, and Gas (“Board”) has promulgated rules governing general water quality criteria and use classifications for surface waters. Tenn. Comp. R. & Regs. Chapters 0400-40-03 and 0400-40-04. The Commissioner may delegate to the Director of the Division of Water Resources (“Director”) any of the powers, duties, and responsibilities of the Commissioner under the Act, Tenn. Code Ann. § 69-3-107(13), and has delegated such authorities to April Grippo.

IV.

The Respondent is a “person” under the Act. Tenn. Code Ann. § 69-3-103(28).

V.

Rutherford Creek at mile 19.6 constitute “waters” of the state and a “stream.” Tenn. Code Ann. §§ 69-3-103 (42) and (48). The Board classifies Rutherford Creek at mile 19.6 for the following uses: fish and aquatic life, livestock watering and wildlife, recreation, and irrigation, industrial water supply, and domestic water supply.

VI.

Any person engaged in or planning to engage in the discharge of sewage, industrial wastes, or other wastes into waters, or to a location from which it is likely that the discharged substance

will move into waters must obtain and comply with a permit from the Department. Tenn. Code Ann. § 69-3-108. 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 conditions of the permit. Tenn. Comp. R. & Regs. 0400-40-05-.07. It is unlawful for any person to violate the conditions of a discharge permit issued by the Department. Tenn. Code Ann. §§ 69-3-108(b) and -114.

FACTS

VII.

On March 31, 2004, the Division issued National Pollutant Discharge Elimination System (NPDES) permit TN0075868 (“Permit”) to the Respondent, authorizing the discharge of treated municipal wastewater from Outfall 001 to Rutherford Creek at mile 19.6 in accordance with all effluent limitations and monitoring requirements set forth. The Permit was most recently reissued on November 20, 2023, became effective January 1, 2024, and expires December 31, 2028.

VIII.

On February 1, 2022, the Division issued Director’s Order WPC22-0001 to the Respondent for self-reported effluent limitation exceedances on its Discharge Monitoring Reports (DMR) during the monitoring period of January 1, 2020, through December 31, 2021. Effluent limitation exceedances for which penalties were assessed included total ammonia [as N], settleable solids, and total suspended solids. Penalties were also assessed for four DMR non-receipt violations. Order WPC22-0001 required the following of the Respondent:

- submission and implementation of a Corrective Action Plan / Engineering Report (CAP/ER) to address how effluent limitation exceedances would be eliminated;

- submission of progress reports and a final report following completion of the CAP/ER; and,
- substantial compliance with the Permit for one year following completion of the CAP/ER.

IX.

On May 19, 2023, the Division issued a Notice of Violation (NOV) to the Respondent after conducting a routine Compliance Status Review of the Discharge Monitoring Reports (DMRs) for the Site. It was noted during the compliance review that the Plant failed to operate within permit effluent limits at Outfall 001 for Total Nitrogen during the monitoring periods of December 2022, through April 2023. The NOV requested a written explanation of the cause of the violations and the corrective action taken to avoid future violations.

X.

On April 17, 2024, the Division issued an NOV to the Respondent following a Compliance Evaluation Inspection (CEI) at the Site on April 10, 2024. The NOV detailed recurring bypasses and effluent limitation exceedances for Total Nitrogen that had been self-reported over the previous year. The NOV requested the Respondent submit a written explanation of the violations and correction actions that would be taken to prevent future violations. The NOV also requested the Respondent attend a Compliance Review Meeting (CRM) to discuss the recurring issues. Representatives of the Respondent attended the CRM with Division personnel on May 28, 2024. Respondent submitted a detailed written explanation as requested to the Division on May 31, 2024.

XI.

On December 17, 2024, the Division issued a letter to the Respondent welcoming them into the Tennessee Plant Optimization Program (TNPOP), a voluntary and cooperative program to

optimize nutrient removal at wastewater treatment plants and save energy through training and technical assistance.

XII.

On April 3, 2025, the Division issued another NOV to the Respondent following a Performance Audit Inspection (PAI) at the Site on April 1-2, 2025. The NOV detailed recurring bypasses and effluent limitation exceedances for Total Nitrogen that had been self-reported since the 2024 CEI. The NOV requested the Respondent submit a written explanation of the violations and corrective actions that would be taken to prevent future violations. The Respondent submitted a detailed written response on May 29, 2025

XIII.

On May 8, 2025, the Division issued a demand for payment of contingent penalties to the Respondent for failure to maintain compliance with the permit during the year following completion of the CAP/ER submitted in association with order WPC22-0001. Violations during this period included Nitrogen, total [as N] and sanitary sewer overflows (SSOs). The Division received payment from the respondent on May 21, 2025. The Respondent is now in compliance with order WPC22-0001, but continues to report chronic effluent exceedances for nitrogen, bypasses, and SSOs.

XIV.

On May 15, 2025, the Division received a 60-day notice of intent to sue the Respondent for alleged violations of the Clean Water Act at the Site.

XV.

During the monitoring period of June 1, 2023 – May 31, 2025, the Respondent self-reported the following effluent limitation exceedances on its Discharge Monitoring Reports:

Parameter	Effluent Exceedances from June 1, 2023 – May 31, 2025
<i>E. coli</i>	2
Nitrogen, ammonia total [as N]	3
Nitrogen, total [as N]	23
Solids, settleable	1
Total	29

XVI.

Part 4.1 of the Permit defines an “SSO” as “an unpermitted discharge of wastewater from the collection or treatment system of a publicly owned treatment works (POTW) or a domestic wastewater treatment plant other than through the permitted outfall.” During the monitoring period of June 1, 2023 – May 31, 2025, the Respondent self-reported the following SSOs on its Discharge Monitoring Reports:

Date	Estimated Volume (gal)	Duration (hours)	Wet/Dry
11-Aug-23	1,000	1	D
17-Aug-23	500	1	D
16-Mar-24	1,500	2	D
20-Mar-24	10,036	614	D
03-May-24	1,500	1	W
03-Jul-24	1,500	2	D
19-Dec-24	1,500	1	D
22-Jan-25	7,000	1.5	D
06-Mar-25	500	1	D
02-Apr-25	500	1	D
02-Apr-25	200	0.5	D

XVII.

Part 4.1 of the Permit defines “bypass” as “the intentional diversion of waste streams from any portion of a treatment facility.” During the monitoring period of June 1, 2023 – May 31, 2025, the Respondent self-reported the following bypasses on its Discharge Monitoring Reports:

Date	Estimated Volume (gal)	Duration (hours)
20-Jul-23	37,634,000	160
18-Aug-23	68,395,600	405
08-Jan-24	2,612,223,500	1,230
06-Mar-24	149,729,890	730
05-May-24	84,527,100	370
12-Feb-25	98,566,517	460
16-Mar-25	1,082,106,200	706
28-May-25	36,606,225	223

VIOLATIONS

XVIII.

By failing to comply with the effluent limitations and conditions set forth in the Permit, the Respondent has violated Tennessee Code Annotated sections 69-3-108(b) and -114(b), which state in relevant part:

§ 69-3-108(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:

- (3) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;
- (6) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters;

§ 69-3-114(b):

In addition, it is unlawful for any person to act in a manner or degree that is violative of any provision of this part or of any rule, regulation, or standard of water quality promulgated by the Board of any permits or orders issued pursuant to this part; or fail or refuse to file an application for a permit as required in § 69-3-108; or to refuse to furnish, or to falsify any records, information, plans, specifications, or other data required by the Board or the Commissioner under this part.

ORDER AND ASSESSMENT

XIX.

Pursuant to the Act, Tenn. Code Ann. §§ 69-3-109, -115, and -116, the Director orders, and the Respondent agrees to the following Order and Assessment (Order), which supersedes Director's Order WPC22-0001:

- 1) **The Respondent is assessed a total civil penalty of \$65,700.00. The Respondent shall pay an upfront allocation of this penalty of \$13,140.00 to the Division on or before the thirty-first day after receipt of this Order.** Payment of all penalties shall be submitted to the following address:

Treasurer, State of Tennessee
Division of Fiscal Services, Consolidated Fees
TN Department of Environment and Conservation
Davy Crockett Tower, 6th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243

The case number, **WPC25-0093**, should be written on all correspondence regarding this matter.

- 2) As an alternative to the upfront allocation in item 1, the Respondent may propose a Supplemental Environmental Project (SEP) to offset up to 75% of the upfront penalty amount. The cost of the project must be at least twice the amount of the penalty to be offset. Though the final value of the SEP may exceed this 2:1 ratio, the penalty may not be reduced by more than 75%. Any proposed SEP must include an estimate of the anticipated cost of the project, a timetable for completion, and detailed plans including but not limited to maps, schematics, lists of plants species, and any ongoing monitoring plans needed. Possible SEPs could include, but are not limited to, lateral line repair in the collection system, conversion of impervious

surfaces to create green spaces and improve absorption of stormwater, or partnership with a least one other regional municipality to purchase and maintain shared equipment (e.g., additional monitoring instruments) to support nutrient removal in the wastewater process. Before an SEP may be implemented, it must be approved, in writing, by the Director. If the Respondent wishes to propose an SEP in lieu of 75% of the upfront penalty, then the value must be at least \$19,710.00. Any proposed SEP must be submitted, in writing, to the Division within thirty-one days after execution of this Consent Order, or the total \$13,140.00 upfront civil penalty will become due and payable not later than 31 days after execution of this Consent Order. If the Director requests modifications to the proposed SEP, the Respondent shall submit the modifications within fifteen days following the request. On or before the thirty-first day following approval of the SEP by the Director, the remaining \$3,285.00 shall become due.

3) Within thirty-one days of the Effective Date of this Order, a moratorium shall be placed into effect on sewer connections to the Respondent's collection system **for all projects that do not have vested sewer rights under applicable Tennessee law, including Tennessee Code Annotated section 13-4-310 and the vested property rights provisions of the City's Unified Development Code. The moratorium shall include, at a minimum:**

- a) **A prohibition on new sewer connections for projects that have not established vested sewer rights under Tennessee Code Annotated section 13-4-310 and the City's Unified Development Code, until additional capacity becomes available as approved by the Division at the WRF, except for projects exempted in subsection (c) below.**
- b) **A suspension of the issuance of new sewer capacity availability letters and until additional sewer capacity becomes available approved by the Division from**

planned expansions of treatment facilities, including but not limited to the WRF expansion, the first phase of the Advanced Purification Facility, or the Reservoir Facility.

- c) **An exemption allowing connections for critical infrastructure as approved by the Division. For purposes of this Order, “critical infrastructure” is defined as facilities vital for providing basic services to the public and protection of health, safety, and welfare. Qualifying infrastructure includes public and private services identified as a utility by the Federal government (water, sewer, natural gas, electricity, and telecommunications), public safety facilities (fire and police), hospitals, and other facilities necessary to remain operational in the event of extreme weather or disaster recovery.**
- d) **A prohibition on extensions of building permits or other development approvals that would rely on City-provided sewer service, to preserve remaining sewer capacity, unless associated with a vested project actively progressing toward construction.**
- e) **A limitation that all new development applications proceeding by-right (i.e., under existing zoning without requiring rezoning or annexation) shall only be allowed to proceed if they propose to use an alternative sewer treatment system that does not add effluent to the Respondent’s WRF.**

At the end of the 31-day period after the Effective Date of this Order, the Respondent shall provide the Division with a full list of the connection commitments. **For purposes of this Order, a project consisting of multiple phases shall be considered vested with respect to its approved sewer allocation for any phases for which the project has obtained vested**

rights under Tennessee Code Annotated section 13-4-310 and the City's Unified Development Code, provided the developer continues to fulfill all conditions required to maintain such vested status, including but not limited to compliance with applicable development timelines, permit conditions, and active pursuit of construction. The Respondent shall maintain and submit to the Division upon request a record of such phased projects, including documentation of vesting status, the scope of each phase, and the sewer allocation associated with each phase. Phased projects that fail to maintain vested rights under applicable law or City ordinance shall be subject to the moratorium provisions set forth in this Order. This moratorium shall remain in effect until the Respondent has not reported a bypass for a period of twelve consecutive months or an SSO of greater than 400 gallons for a period of twelve consecutive months and the Division has either rescinded or modified the moratorium in writing. The Division may modify the moratorium to grant relief flow as a result of demonstrated reduction in infiltration / inflow (I/I) from the collection system or increased treatment capacity, subject to review by the Division's Engineering Services Unit. If the Respondent fails to comply with this Item by allowing additional connections to its collection system without written approval by the Division, it shall pay \$10,530.00.

- 4) Within thirty-one days of the Effective Date of this Order, The Respondent shall continue to participate in TNPOP until February 28, 2026. The Respondent shall submit two concise progress reports describing optimization efforts underway at the Site and a brief analysis of the results of optimization efforts. The first progress report shall be due October 15, 2025, and the second progress report shall be due March 15, 2026. If the Respondent fails to comply with

this Item, it shall pay \$350.00 to the Division for each day a report is late, not to exceed a total of \$10,500.00.

5) Within 180 days of the Effective Date of this Order, the Respondent shall submit a CAP/ER to the Division. The CAP/ER shall address how the effluent limitation exceedances, SSOs, and bypasses listed in Paragraphs XV, XVI, and XVII of this Order will be eliminated. The CAP/ER shall include a specific date of completion for each corrective action and shall address the following:

- a) A plan to assess the collection system, including flow monitoring of the collection system during at least the months of November to May;
- b) A plan to rehabilitate the collection system and reduce I/I influence on the system;
- c) A plan for regular solids removal, including the purchase and regular maintenance of necessary equipment for efficient removal; and,
- d) An evaluation of the effectiveness of all components in the treatment train.

Any modifications to the CAP/ER requested by the Division shall be submitted within 30 days following receipt of Division notice **unless the parties agree additional time is necessary.**

Upon Division approval of the CAP/ER, each milestone date of the project schedule shall become an enforceable component of this Consent Order. If the Respondent fails to comply with this Item, the Respondent shall pay \$350.00 to the Division for each day the CAP/ER is late, not to exceed a total of \$10,500.00.

6) The Respondent shall complete each step of the CAP/ER no later than the date in the Division-approved schedule. The Respondent shall submit concise, semi-annual progress reports detailing the corrective actions taken to the date of the progress report. The Respondent shall

submit each report to the Division no later than July 15th and January 15th of the year(s) during which CAP/ER implementation occurs until completion of the CAP/ER. If the Respondent fails to comply with this Item, the Respondent shall pay \$1,755.00 to the Division for each milestone or semi-annual report that is late, not to exceed a total of \$10,530.00.

- 7) Within 180 days following completion of all measures in the CAP/ER, the Respondent shall write and submit a Final Report to the Division for approval. The Final Report shall include descriptions of each scheduled action from initiation to completion, a detailed study evaluating the success of the CAP/ER in achieving substantial compliance with the Permit, and an analysis of the study. If the Respondent fails to comply with this Item, the Respondent shall pay \$350.00 to the Division for each day that the Final Report is late, not to exceed a total of \$10,500.00.

This Order shall be considered closed upon Division approval of the final report, provided all requirements have been met, any outstanding penalties have been paid, and the Respondent is in substantial compliance with the Act.

The Effective Date of this Order shall be the date it is signed by the Director. The Director may, for good cause shown, extend the compliance dates contained within this 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 Order could lead to further enforcement actions, which may include additional civil penalties, assessment of damages, and/or recovery of costs.

DEPARTMENT'S RESERVATION OF RIGHTS

In entering into this Order, 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 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.

WAIVER OF RIGHT TO APPEAL

The Respondent understands that it has the right to appeal this Order pursuant to sections 69-3-109, -115, and -116 of the Act. By signing below, the Respondent knowingly and voluntarily waives any right it may have to appeal this Order.

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 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 Order. The Respondent reserves its rights to contest the factual allegations

and alleged violations contained in this Order in any proceeding other than a proceeding brought by the Department to enforce the terms of this Order.

Agreed to by the Respondent, as evidenced by the signature below, and issued by the Director of the Division of Water Resources this _____ day of _____, 2025.

The Honorable Matt Fitterer, Mayor
City of Spring Hill

April Grippo, Director
Department of Environment and Conservation

Reviewed by:

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