



State of Tennessee
Department of State
Administrative Procedures Division
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January 30, 2020

Commissioner David Salyers, P.E.
Tennessee Department of Environment &
Conservation
Office of General Counsel
2nd Floor, William R. Snodgrass Tower
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Nashville, TN 37243

RE: In the Matter of: Memphis Regional Megasite/NPDES Permit Appeal
Docket No. 04.30-152860J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

STATE OF TENNESSEE
BOARD OF WATER QUALITY, OIL AND GAS

IN THE MATTER OF:	)	DIVISION OF WATER RESOURCES
MEMPHIS REGIONAL MEGASITE,	)	
NPDES PERMIT TN0081906 APPEALS	)	CASE NUMBER WPC18-0035
	)	
ANGEL ADKINS AND	)	
ADRIENNE HEINZELMAN	)	
<i>Petitioners,</i>	)	
	)	
v.	)	
	)	DOCKET NUMBER 04.30-152860J
TENNESSEE DEPARTMENT OF	)	JUDGE ROB WILSON
ENVIRONMENT AND	)	
CONSERVATION,	)	
<i>Respondent.</i>	)	

INITIAL ORDER OF DISMISSAL

On October 14, 2019, the undersigned entered an order denying the Petitioners' Motion for Summary Judgment in this matter. On December 16, 2019, the Respondents filed a Motion for Summary Judgment, requesting an expansion of time for Petitioners to respond with a deadline of January 24, 2020. The Petitioners in this matter bear the burden of proving that NPDES Permit No. TN0081906 does not comply with the Tennessee Water Quality Control Act, Tenn. Code Ann. §§ 69-3-101 to -148, and the rules promulgated thereunder. On January 23, 2020, the Petitioners, through counsel, filed a notice that they would not file a response to the Respondent's motion for summary judgment or any additional pleadings.

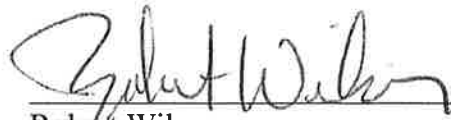
Therefore, it is **CONCLUDED** that the Petitioners claims were not proven by a preponderance of the evidence.

The policy reasons for this decision are to uphold the laws of the State of Tennessee and to facilitate the fair and efficient management of the permitting process set out therein.

Accordingly, the Petitioners' petition for statutory permit appeal is **DISMISSED** with prejudice.

It is so **ORDERED**.

This INITIAL ORDER is entered and effective on this 30TH day of JAN., 2020.



Robert Wilson
Administrative Judge
Administrative Procedures Division
Office of the Secretary of State

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the 30TH day of JANUARY 2020.



STEPHANIE SHACKELFORD, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

IN THE MATTER OF:
Memphis Regional Megasite, NYPDES Permit
TN0081906 Appeals

APD CASE No. 04.30-152860J

Angel Adkins and Adrienne Heinzelman,
Petitioners v. Tennessee Department of
Environment & Conservation, Respondent.

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

Attached is the Administrative Judge's decision in your case before the **Commissioner of the Tennessee Department of Environment & Conservation (the Commissioner)**, called an Initial Order, with an entry date of **January 30, 2020**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and sets forth the specific reasons why you think the decision is incorrect. The APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is no later than **February 14, 2020**. A new 15 day period for the filing of an appeal to the Commissioner (as set forth in paragraph (2), below) starts to run from the entry date of an order disposing of a Petition for Reconsideration, or from the twentieth day after filing of the Petition if no order is issued.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal. Such an Appeal must be **received** by the APD no later than 15 days after the date of denial of the Petition. See TENN. CODE ANN. § 4-5-317 and § 4-5-322.

2. **A Party Files an Appeal of the Initial Order:** You may appeal the decision to the Commissioner. Mail to the APD a document that includes your name and the above APD case number, and states that you want to appeal the decision to the Commissioner, along with the basis for your appeal. The APD must **receive** your written Appeal no later than 15 days after the entry of the Initial Order, which is no later than **February 14, 2020**. The filing of a Petition for Reconsideration is not required before appealing. See TENN. CODE ANN. § 4-5-317.
3. **The Commissioner of the Tennessee Department of Environment & Conservation decides to Review the Initial Order:** In addition, the Commissioner may give written notice of his or her intent to review the Initial Order, within 15 days after the entry of the Initial Order.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the Commissioner renders a Final Order.

If none of these actions set forth in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

STAY

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for a stay must be received by the APD within 7 days of the date of entry of the Initial Order, which is no later than **February 6, 2020**. See TENN. CODE ANN. § 4-5-316.

IN THE MATTER OF:
Memphis Regional Megasite, NYPDES Permit
TN0081906 Appeals

APD CASE No. 04.30-152860J J

Angel Adkins and Adrienne Heinzelman,
Petitioners v. Tennessee Department of
Environment & Conservation, Respondent.

REVIEW OF A FINAL ORDER

1. **A Party may file a Petition for Reconsideration of the Final Order:** When an Initial Order becomes a Final Order, a party may file a Petition asking for reconsideration of the Final Order. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and sets forth the specific reasons why you think the Final Order is incorrect. If the Initial Order became a Final Order without an Appeal being filed, and without the Commissioner deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the Commissioner rendered a Final Order, the Commissioner will consider the Petition. The APD must receive your written Petition for Reconsideration no later than 15 days after: (a) the issuance of a Final Order by the Commissioner; or (b) the date the Initial Order becomes a Final Order. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing the Final Order will be adjusted. If no action is taken within 20 days of filing of the Petition, it is deemed denied. *See* TENN. CODE ANN. § 4-5-317.
2. **A Party Files an Appeal of the Final Order:** A person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review "in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County," within 60 days of the date of entry of the Final Order. *See* TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.
3. **A Party may request a stay of the Final Order:** A party may file a Petition asking for a stay that will delay the effectiveness of the Final Order. If the Initial Order became a Final Order without an Appeal being filed, and without the Commissioner deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the Commissioner rendered a Final Order, the Commissioner will consider the Petition. A Petition for a stay of a Final Order must be received by the APD within 7 days after the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-316.

FILING

To file documents with the Administrative Procedures Division, use this address:

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Administrative Procedures Division
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