



**State of Tennessee**  
**Department of State**  
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**August 11, 2022**

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**RE: TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION V.  
THE SIERRA CLUB AND CENTER FOR BIOLOGICAL DIVERSITY, APD Case  
No. 04.30-220153J**

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division  
Tennessee Department of State

Enclosure(s)

BEFORE THE TENNESSEE BOARD OF WATER QUALITY, OIL & GAS

IN THE MATTER OF:

TENNESSEE DEPARTMENT OF  
ENVIRONMENT AND  
CONSERVATION,  
*Petitioner,*

APD Case No. 04.30-220153J

v.

CENTER FOR BIOLOGICAL  
DIVERSITY,  
THE SIERRA CLUB,  
*Respondent.*

**ORDER GRANTING RESPONDENT TENNESSEE DEPARTMENT OF  
ENVIRONMENT AND CONSERVATION'S AND INTERVENOR TENNESSEE  
VALLEY AUTHORITY'S JOINT MOTION TO DISMISS PETITIONER'S APPEAL**

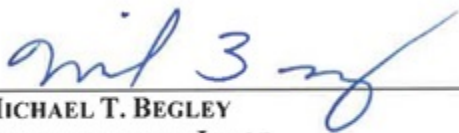
Upon consideration of Respondent Tennessee Department of Environment and Conservation's and Intervenor Tennessee Valley Authority's Joint Motion to Dismiss, Petitioner's Motion for Summary Judgment, all opposition thereto, the oral argument of the parties, and the relevant law, it is hereby ORDERED that:

1. Petitioner's appeal challenges a provision of the permit that was not modified. Tennessee rules make clear that for "permit modifications only those terms that were the subject of the modification may be appealed." Tenn. Comp. R. & Regs. 0400-40-05-.12(2). As such, the following are hereby **ORDERED**:
  - a. Respondent's and Intervenor's Joint Motion to Dismiss is **GRANTED**; and
  - b. Petitioner's Motion for Summary Judgment is **DENIED**.

Petitioners' appeal is hereby **DISMISSED**.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **11th day of August, 2022**.

  
MICHAEL T. BEGLEY  
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  
**11th day of August, 2022.**

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE TENNESSEE BOARD OF WATER QUALITY, OIL & GAS (the Board)**, called an Initial Order, was entered on **August 11, 2022**. 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 with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is no later than **August 26, 2022**. A new 30 day period for the filing of an appeal to the Board (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling of a Petition for Reconsideration, or from the twentieth day after filing of the Petition if no order is issued. Filing instructions are included at the end of the document.<sup>1</sup>

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, which must be **received** by APD no later than 30 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 and/or Other Earlier Orders:** You may appeal the decision, together with any earlier order issued by the Administrative Judge you specifically choose to appeal, to the Board, by filing an Appeal of the Initial Order with APD. An Appeal of the Initial Order should include your name and the above APD case number and state that you want to appeal the decision to the Board, specifying any earlier order(s) issued by the Administrative Judge that you also want to appeal, along with the specific reasons for your appeal. APD must **receive** your written Appeal no later than 30 days after the entry of the Initial Order, which is no later than **September 12, 2022**. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The Board Decides to Review the Initial Order:** In addition, the Board may give written notice of its intent to review the Initial Order within the longer of 30 days or 7 days after the first board meeting to occur after entry of the Initial Order. No later than 7 days after the entry of an Initial Order, TDEC shall file, and serve, a Notice of Filing containing the date of the next Board meeting. No later than 7 days after the next Board Meeting, TDEC shall file, and serve, a Notice of Filing setting forth what action, if any, the Board took with respect to 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 Board renders a Final Order affirming, modifying, remanding, or vacating the administrative judge's Initial Order.

If none of the actions 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.**

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<sup>1</sup> See TENN. CODE ANN. §§ 68-201-108 (Air Pollution Control Board); 68-211-113, 68-212-113, 68-212-215, 68-215-115, 68-215-119 (Underground Storage Tanks and Solid Waste Disposal Control Board); TENN. CODE ANN. §§ 60-1-401, 69-3-110, 68-221-714 (Board of Water Quality, Oil & Gas).

**IN THE MATTER OF:  
TENNESSEE DEPARTMENT OF ENVIRONMENT AND  
CONSERVATION V. THE SIERRA CLUB AND CENTER  
FOR BIOLOGICAL DIVERSITY**

**APD CASE No. 04.30-220153J**

**NOTICE OF APPEAL PROCEDURES**

**IN THE MATTER OF:  
TENNESSEE DEPARTMENT OF ENVIRONMENT AND  
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**NOTICE OF APPEAL PROCEDURES**

**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 APD within 7 days of the date of entry of the Initial Order, which is no later than **August 18, 2022**. See TENN. CODE ANN. § 4-5-316. 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.

**REVIEW OF A FINAL ORDER**

When an Initial Order becomes a 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 the Initial Order becomes a 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.

**FILING**

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: [APD.Filings@tn.gov](mailto:APD.Filings@tn.gov)

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State  
Administrative Procedures Division  
William R. Snodgrass Tower  
312 Rosa L. Parks Avenue, 8<sup>th</sup> Floor  
Nashville, TN 37243-1102