



Department of
**Environment &
Conservation**

Public Hearing
Water Quality, Oil and Gas Board
Davy Crockett Tower
500 James Robertson Pkwy, Nashville – Conf. 1A
and via Microsoft Teams
October 15, 2024– 10:00am

*If you wish to make Public Comment, please fill out a yellow comment card, or if virtual please email Drake.Smarch@tn.gov or message the chat box. Include what you want to comment on, and you will to be placed in line.

Welcome!

- Opening remarks from Division of Water Resources Director, April Grippo
- Introduction of new members by Technical Secretary
- Roll call of Board members present.
- Chairman's welcome of new members.

Board Minutes

- Presentation of minutes from April 2024
- **Vote** for approval of minutes.
- Minutes are available on the Board's website: <https://www.tn.gov/environment/about-tdec/boards-and-commissions/board-tennessee-board-of-water-quality--oil-and-gas.html>



Department of
**Environment &
Conservation**

Initial Order of Default and Dismissal *S and H Mining Inc. v. TDEC*

Board of Water Quality, Oil, and Gas October 15, 2024

S and H Mining Inc. v. TDEC, 04.30-236510J

- S and H Mining Inc.'s National Pollution Discharge Elimination System (NPDES) Permit expired on July 31, 2022, after S and H Mining Inc. failed to submit a completed renewal application to the Department.
- The Department issued a letter to S and H Mining Inc. on August 17, 2023, explaining that the Permit expired and no completed renewal application was ever received.
- S and H Mining Inc. submitted a letter to the Department on September 18, 2023, attempting to appeal the Permit's expiration.
- In accordance with an Administrative Law Judge order, a pre-hearing conference was convened by telephone on February 29, 2024. OGC Counsel participated on behalf of TDEC. No one appeared or otherwise participated on behalf of Petitioner.

S and H Mining Inc. v. TDEC, 04.30-236510J

- If a party fails to participate in a pre-hearing conference, that party may be held in default pursuant to Tennessee Code Annotated section 4-5-309.
- TDEC filed a Motion for Default on June 27, 2024.
- Petitioner did not participate in the pre-hearing conference, the discovery process, or file a response to any motion.
- Initial Order granting TDEC's Motion for Default was issued on August 7, 2024.

Initial Orders

The administrative judge's initial order, together with any earlier orders issued by the administrative judge, shall become final unless appealed to the board by the commissioner or other party within thirty (30) days of entry of the initial order or, unless the board passes a motion to review the initial order pursuant to § 4-5-315, within the longer of thirty (30) days or seven (7) days after the first board meeting to occur after entry of the initial order. Upon appeal to the board by a party, or upon passage of a motion of the board to review the administrative judge's initial order, the board shall afford each party an opportunity to present briefs, shall review the record and allow each party an opportunity to present oral argument. If appealed to the board, the review of the administrative judge's initial order shall be limited to the record, but shall be de novo with no presumption of correctness.

Tenn. Code Ann. § 69-3-110(a)

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Options

- Pass a motion to review the initial order;
- Pass a motion not to review the initial order; or
- Take no action, which results in the initial order becoming a final order in 7 days, provided that no party appeals within 30 days after entry of the initial order.

Repeal of 0400-45-06-.05 Injected Fluid Standards

- Repeal of this rule does not minimize the Rule's authority to govern quality of injection well injectate.
- Repeal of this rule does not remove standards that have been utilized to govern injectate quality.
- This rule section does not have a federal counterpart.

UIC Rules Referencing Injectate Quality

- 0400-45-06-.04 PREVENTION OF POLLUTION OF GROUND WATER AND IDENTIFICATION OF UNDERGROUND SOURCES OF DRINKING WATER AND EXEMPTED AQUIFERS.
- 1) No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, **if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons.** The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.
- (3) For class V wells, if at any time the Commissioner learns that a Class V well **may cause a violation of primary drinking water regulations** he or she shall:
 - (a) Require the injector to obtain an individual permit; and/or
 - (b) Order the injector to take such actions (including, where required, closure of the injection well) as may be necessary to prevent the violation; and/or
 - (c) Take enforcement action.

UIC Rules Referencing Injectate Quality (cont.)

- 0400-45-06-.14 CLASS V WELLS.
- (1) The following are prohibited:
 - (b) The use of any Class V injection well in such a manner as to cause any USDW to contain any substances, that are toxic, carcinogenic, mutagenic, or teratogenic, other than those of natural origin, **at levels and conditions which violate primary drinking water standards as given in Chapter 0400-45-01 or adversely affect the health of persons.**
- (2) Construction and operation of a Class V well is authorized by virtue of this rule provided:
 - (a) the use of any Class V injection well **does not present a hazard to any existing or future use of a USDW,**
- (4) No authorization by permit or rule shall be allowed where a Class V well **causes or allows a violation of the provisions of paragraph (1) of this rule or pollution of any ground or surface water.**
- (12) Prohibition of fluid movement. (a) Injection activity prohibitions 1. No injection activity can allow the movement of fluid containing any contaminant into USDWs, **if the presence of that contaminant may cause a violation of any primary drinking water standard, or other health based standards, or may otherwise adversely affect the health of persons.** This prohibition applies to well construction, operation, maintenance, conversion, plugging, closure or any other injection activity.

UIC Rules Referencing Injectate Quality (cont.)

- (13) Authorization by Rule Requirements

All Class V UIC well authorizations by rule shall comply with this rule and all conditions established by the Commissioner as necessary to fulfill the purposes of the Tennessee Water Quality Control Act, T.C.A. §§ 69-3-101 et seq., contain a description of the injection zone being authorized, and contain any necessary corrective action as stated under paragraph (5) of Rule 0400-45-06-.09. **The authorization conditions shall be set at levels to prevent adverse effects to persons utilizing the ground water resource after consideration of at least the following factors: any guidelines set for certain pollutants by U.S.E.P.A.; the flow characteristics of ground water risk to humans; and the risk of migration.**

Governance

- “Authorization By Rule” would not be the appropriate governance structure for activities intending to introduce pollutants, nor for activities causing introduction of pollutants.
- Any proposed injection activity with the potential to impact underground sources of drinking water or any existing injection activity tied to an observed impact to underground sources of drinking water would be subject to “Permit” consideration.
 - Public Notice
 - Injectate Characterization
 - Treatment if Necessary
 - Sampling
 - Permit Conditions and Term Limits



Department of
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TDEC Wetlands Report: Stakeholder Engagement & Recommendations

April Grippo | Director, DWR

Background

- *Sackett v. EPA* – Emphasized the primary responsibility of states to regulate their water resources.
- House Bill 1054 (SB0631) legislation was deferred to summer study by the Senate Energy, Agriculture and Natural Resources Committee.
- In response to summer study, TDEC facilitated a stakeholder engagement process from April – September to base recommendations for regulation of geographically isolated wetlands (GIW) in Tennessee.

Wetland Steering Committee

- **TN State Legislature**
- **Homebuilder/ Developer**
 - TN Homebuilders Assoc.
 - Build TN
 - TN Roadbuilders Assoc.
 - TN Chamber of Commerce
 - Flatrock Motorsports
- **Government Agencies:**
 - TN Dept Environment & Conservation (TDEC)
 - TN Dept of Transportation (TDOT)
 - TN Wildlife Resources Agency (TWRA)
 - TN Emergency Management Agency (TEMA)
 - TN Dept of Agriculture (TDA)
 - TN Dept of Economic & Community Development (TN ECD)
- **Nonprofit/NGO**
 - Farm Bureau
 - Protect our Aquifer
 - Southern Environmental Law Center
 - Harpeth Conservancy
 - Tennessee Wildlife Federation
 - TN Soybean Council
- **Mitigation Provider**
 - TN Ecological Restoration Association
- **Academia**
- **Water Quality, Oil, & Gas (WQOG) Board**
- **TN Stormwater Association/MS4**

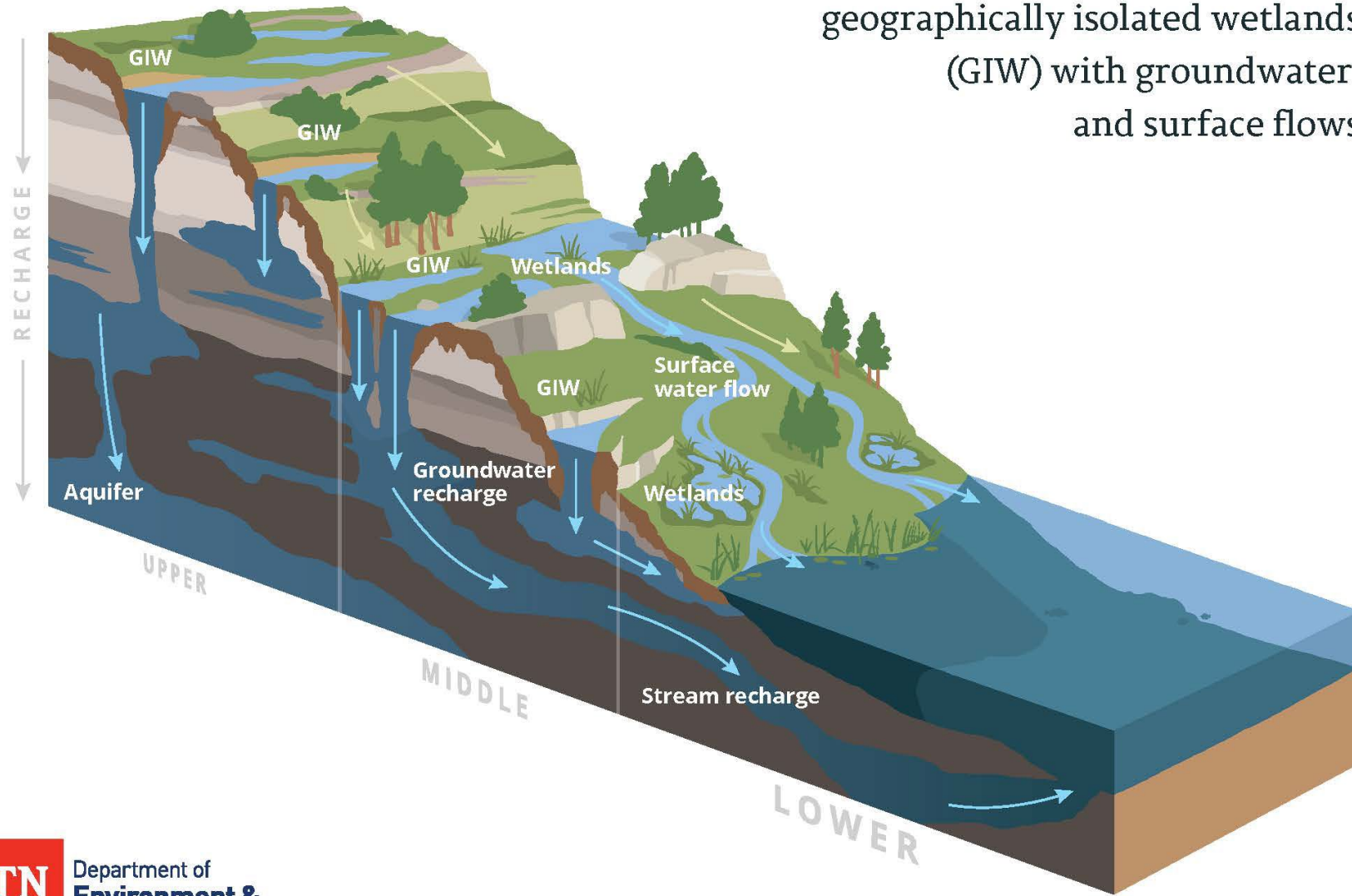


Societal Benefits of Wetlands



Subsurface Flows

generalized flow model connecting
geographically isolated wetlands
(GIW) with groundwater
and surface flows



Geographically Isolated Wetlands

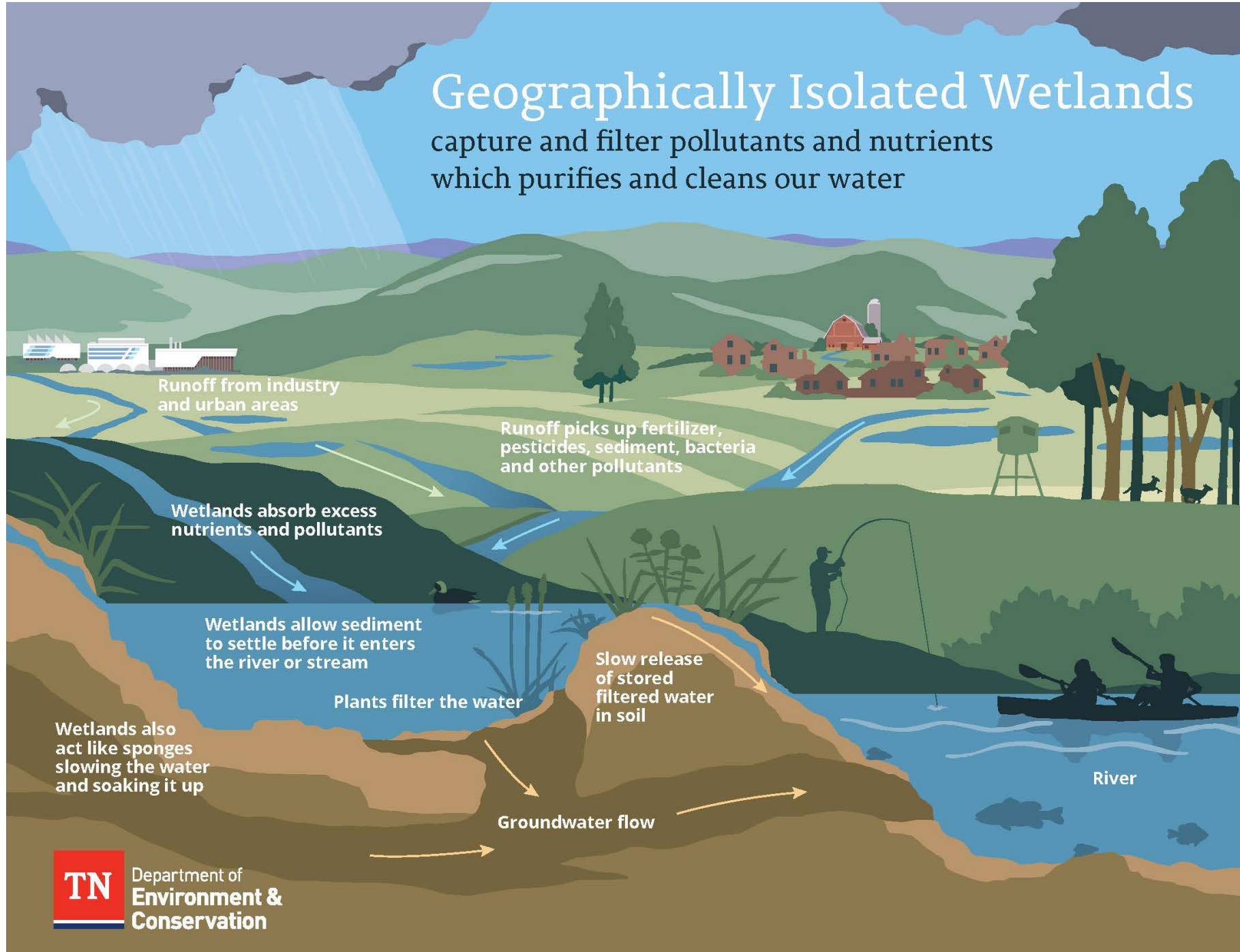
naturally mitigate stormwater runoff and reduce flood risk





Geographically Isolated Wetlands

capture and filter pollutants and nutrients
which purifies and cleans our water





Wetland Summit: Breakout Session Feedback

Wetland Summit

- Informational presentations and Q&A
- TDEC-facilitated break-out sessions
 - Regulatory clarity
 - Permitting and process
 - Technical improvements
 - Economic costs, benefits and incentives for protecting wetlands



Main Themes: Regulatory Clarity and Consistency

- Define geographically isolated wetlands
- Define water quality tiers
 - Science-based, data-driven, and account for regional differences
- Balance state and federal roles
 - Some participants advocated for stronger state autonomy to address local needs, while others want Tennessee regulation to be consistent with federal guidelines



Recommendations: *Regulatory Consistency and Clarity*

1. Add a definition of geographically isolated wetlands to the Water Quality Control Act (WQCA)

2. Define wetland quality tiers (*low, moderate, and high*)

3. Amend the WQCA and Aquatic Resource Alteration Permit (ARAP) rules regarding mitigation

4. Create a voluntary wetland conservation fund

5. Authorize qualified wetland professionals to submit reports with a presumption of correctness

6. Incorporate exceptions to ARAP

7. Amend rules to clarify how cumulative impacts applies

8. Eliminate the requirement to publish public notices in a newspaper

Main Themes: Permitting and Process

- Broader General Permits
 - Cover more projects, including expanding coverage for infrastructure, mitigation, and restoration
- Increased staffing and training
 - Improve review process, promptly assign permits, implement permit application checklists
- Leverage technology
 - Better permit tracking, online applications, better mapping tools
- Improve permitting consistency and efficiency
 - Use permit templates



Recommendations: *Permitting Efficiency*

9. Broaden the scope of general permits

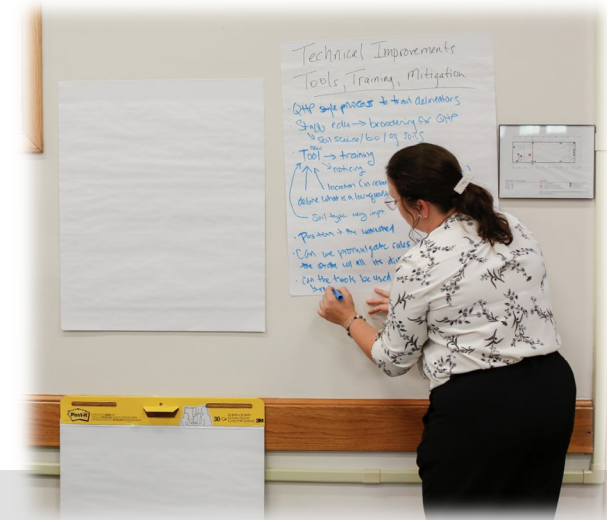
10. Reorganize staff and management of TDEC's Natural Resources Unit

11. Account for the range of societal benefits when determining mitigation

12. Leverage technology to improve permitting efficiency and data analysis

Main Themes: Technical Improvements

- Develop training programs
 - Standardize certification programs for delineating wetlands and determining wetland quality
- Update assessment tools
 - Update the TRAM, tools should account for regional variability, web-based maps
- Refine mitigation strategies
 - Options to tie mitigation requirements to wetland quality and function
- Coordinate with regulatory agencies
 - Coordination with IRT and TEMA



Recommendations: *Technical Improvements*

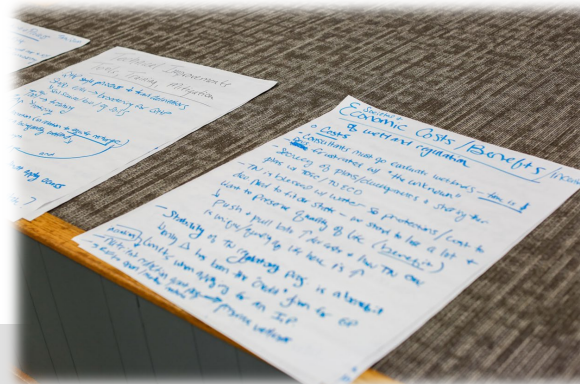
13. Update and refine the TN Rapid Assessment Methodology

14. Refine and maintain GIS mapping tools

15. Develop training for qualified wetland professionals, staff and practitioners

Main Themes: Economic Costs, Benefits and Incentives

- Market-based incentives
 - Approaches to encourage preservation, tax incentives and on-site crediting
- Promote green infrastructure
 - Adopt green infrastructure and proactive efforts in flood prevention and preservation
- Expand existing programs
 - Additional funding opportunities , conservation incentives and leverage funding
- Promote partnership
 - Promote partnerships to reduce long-term costs associated with monitoring



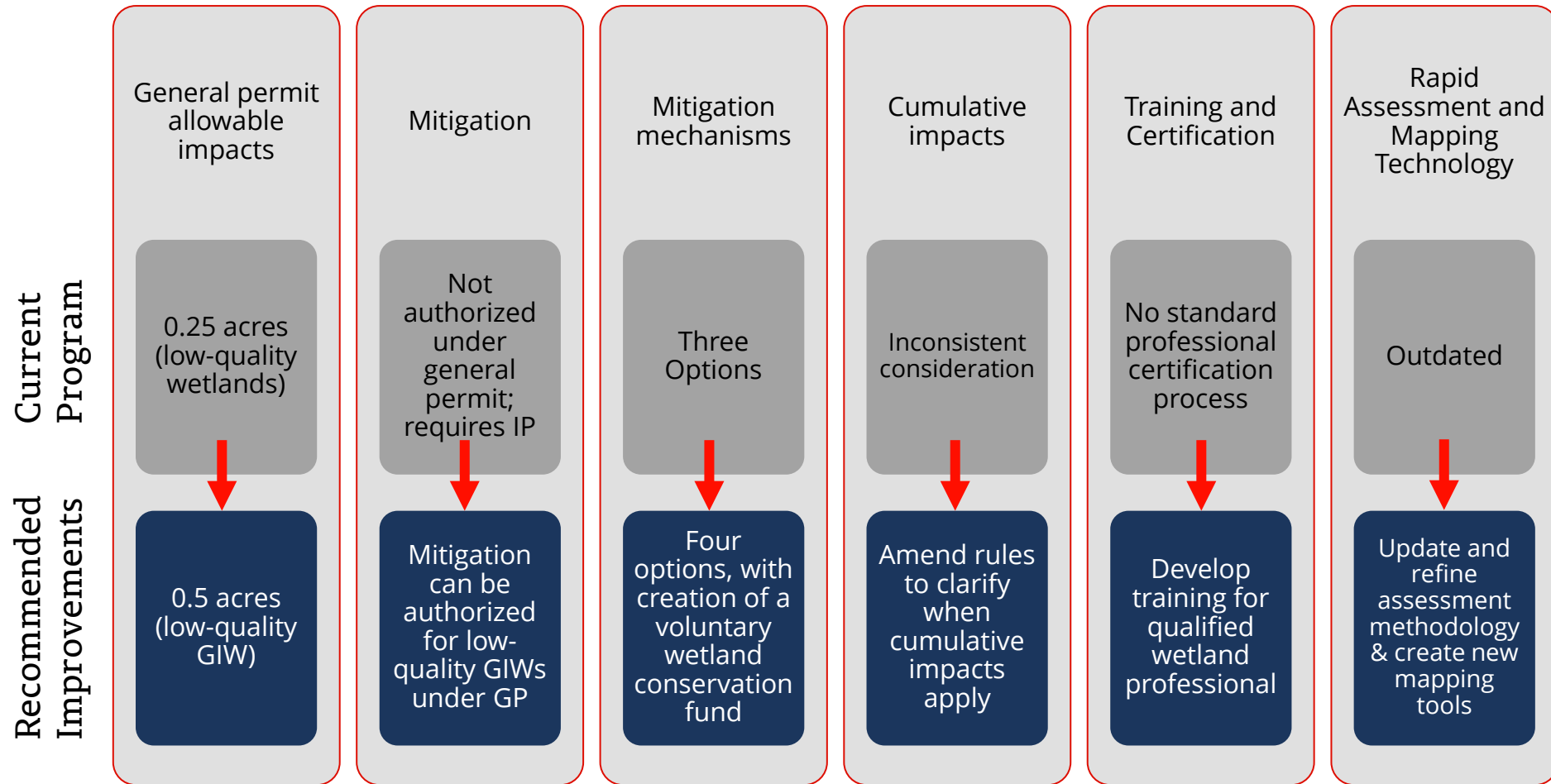
Recommendations: *Economic Costs, Benefits, and Incentives*

16. Request a third-party report on the economic impacts and societal benefits of wetlands

17. Explore opportunities for a voluntary wetland conservation incentive fund

18. Options to incentivize permanent stormwater detention

Recommendation Comparisons



Deeper Dive: Skytech Wetland Mapping and Modeling

- The National Wetlands Inventory is outdated and imprecise.
- TDEC partnership to develop new GIS mapping tool.
 - Modeling technology to optimize due diligence
 - This will be more accurate and practical tool for stakeholders alike.



Thank You!



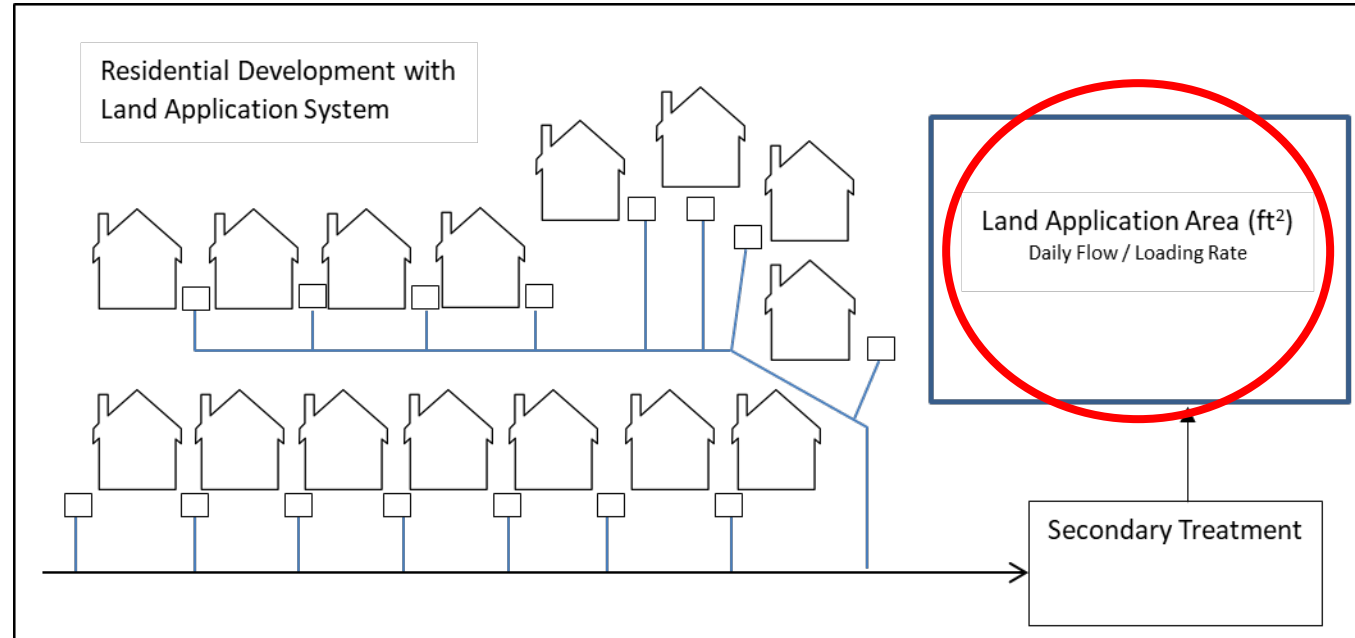
Department of
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**Statewide Survey of Land Application Areas
Utilizing Drip Dispersal for Wastewater Management**

October 15, 2024

Britton Dotson, Environmental Fellow, Division of Water Resources

Land Application Systems – Land Application Area Assessment Project (Drip Dispersal)



- Land Application **Area** Performance Assessment
- Statewide – January and February 2024
- Standard Observations (Visual/Non-Intrusive) and Intake Form
- 19 Staff with Common Project Leadership and Direction
- 420 Land Application Areas Supporting 374 Land Application Systems
 - Vast Majority Entirely Reliant on Land Application (over > 95%)

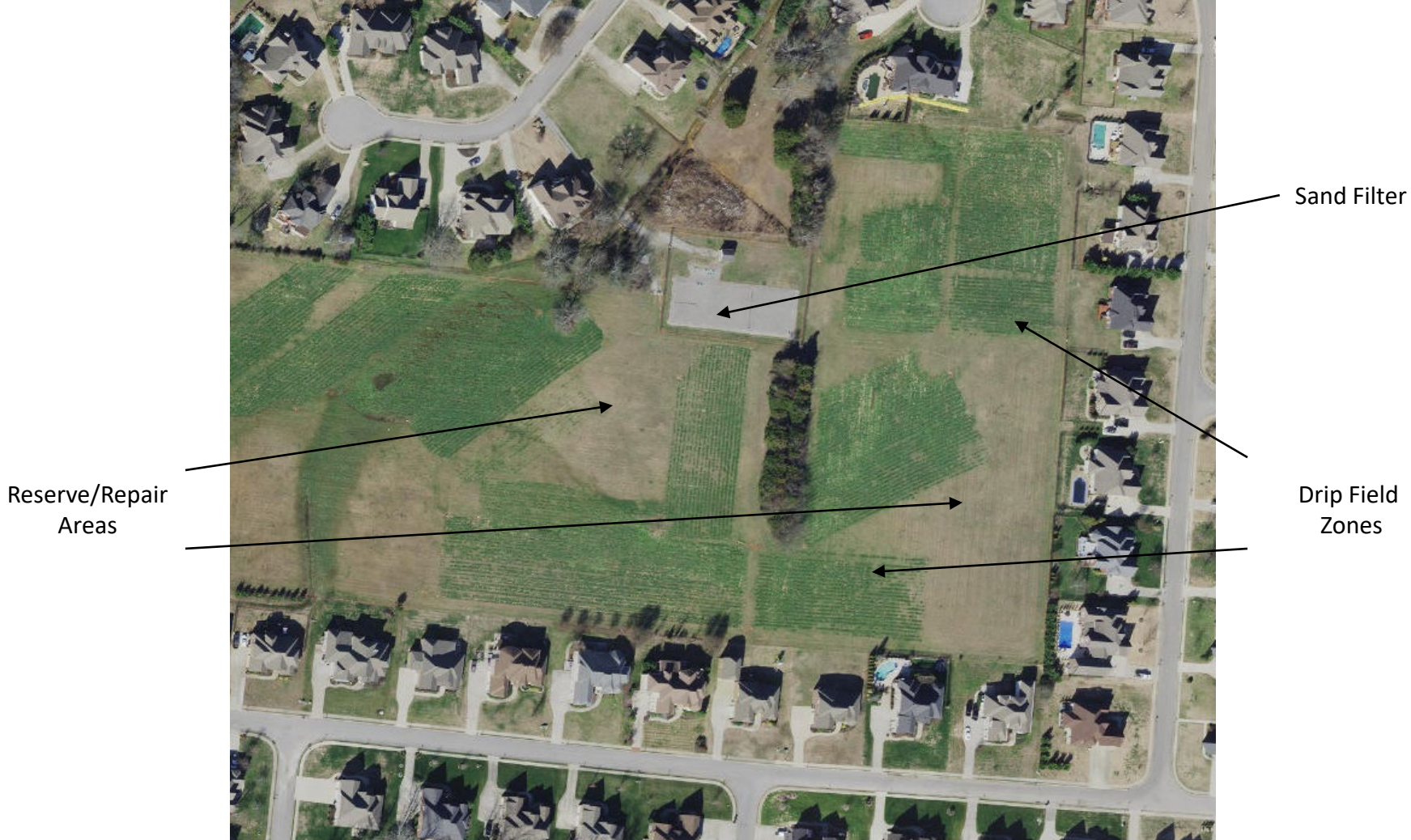
Secondary Treatment
Effectiveness Was Not
Evaluated.

System/Area

- **Land Application Systems** in this project are those that utilize drip dispersal, in whole or in part.
- **Land Application Areas** are the soil areas associated with each system. These are the areas intended for wastewater dispersal. Many systems have multiple land application areas.
 - Each land application area was subject to its own inspection and report.

Evaluation of Compliance During This Project Was Not Comprehensive

Example of a Land Application System



Performance Expectations For Systems

- All sewage collected and treated to secondary treatment plant limits (system flows range from hundreds of gallons per day to hundreds of thousands of gallons per day)
 - Typical secondary treatment limits do not support direct discharge or reuse
 - Sampling and Monitoring obligations do not support direct discharge or reuse
- Partially treated wastewater dispersed to an area of soil with suitable properties.
- Applied effluent is expected to receive further treatment in the soil profile thereby presenting minimal threat to underlying groundwater.
- **Area should not exhibit prolonged saturation of the soil profile or persistent ponding of the effluent on the ground surface.**
- **Effluent should not be leaving the area except by percolation through the soil profile, evaporation or transpiration.**

Important Note

- These systems are **Non-Discharging**.
 - State Operating Permits do not allow direct discharge to surface waters, or to any location where it is likely to enter surface waters.
 - State Operating Permits do not allow direct discharge to groundwater (as in a well or through karst features).

Performance Examples (Qualitative Observations)



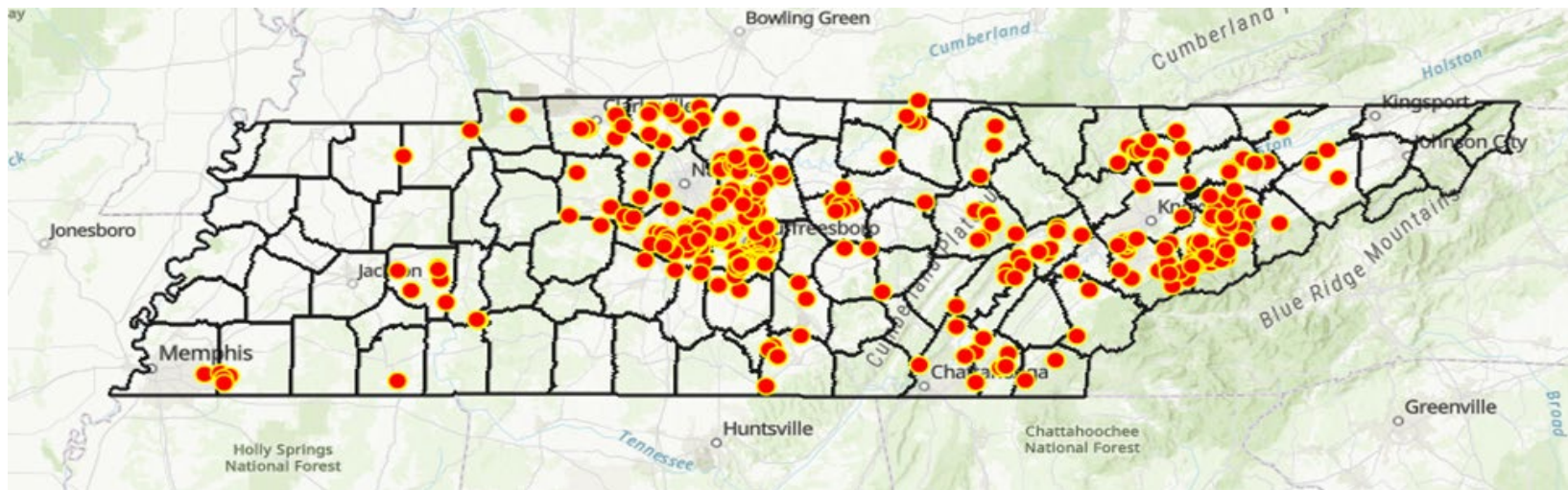
Performing Poorly



Performing Appropriately

Many of these systems are **IN** or immediately adjacent to residential developments.

Distribution of Land Application Systems



420 Land Application **Areas** Supporting 374 Land Application **Systems**

Survey Data Collection and Management

- All data were collected using ArcGIS Survey123 and are being managed through an associated ArcGIS Dashboard.
- Each report includes **standardized observations** along with site-specific notes and photographs.
- The same format and report form were utilized for follow-up visits related to this project.

Performance Subpopulations

- During the data assessment stage of the project, several distinct performance subpopulations became evident.
 - Largely based on recorded standard observations
 - Aided by site-specific notes and pictures.
- Two Primary Subpopulations Were Identified
- Seven Secondary Subpopulations Were Identified

Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation		Secondary Subpopulation	
X	Systems in which wastewater either did not reach the land application area or did not engage the soil area. These areas were not informative for evaluating land application area performance	X1	Systems that were permitted but were not operational. This includes systems that were either not in use or had not been constructed.
		X2	Systems that discharged all or a portion of their wastewater flow at the secondary treatment plant. Most or all the flow from these systems did not reach the land application area.
		X3	Systems that exhibited significant infrastructure problems in the land application areas such that the drip dispersal network was not engaged, or not fully engaged.
A	Land application areas that receive wastewater from systems and engage the soil profile. This subpopulation does support the project design objective of evaluating hydraulic performance.	A1	Land application areas with no observations that indicate malfunction.
		A2a	Land application areas where localized areas of soil saturation and ponding were observed.
		A2b	Land application areas where extensive areas of ponding and/or overland flow (slope dependent) were observed. This includes areas where overland flow remained within the land application area, ran off the land application area, and, in some cases entered drainage features or surface waters.
		A3	Land application areas that were so overgrown that it was impractical to make valid observations of the land application area.

Table 1. Common Characteristics of Populations/Subpopulations

	Primary Subpopulation	Secondary Subpopulation
X	Systems in which wastewater either did not reach the land application area or did not engage the soil area. These areas were not informative for evaluating land application area performance	

Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation	Secondary Subpopulation
A Land application areas that receive wastewater from systems and engage the soil profile. This subpopulation does support the project design objective of evaluating hydraulic performance.	

Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation		Secondary Subpopulation	
X	Systems in which wastewater either did not reach the land application area or did not engage the soil area. These areas were not informative for evaluating land application area performance	X1	Systems that were permitted but were not operational. This includes systems that were either not in use or had not been constructed.

Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation		Secondary Subpopulation	
X	Systems in which wastewater either did not reach the land application area or did not engage the soil area. These areas were not informative for evaluating land application area performance		
		X2	Systems that discharged all or a portion of their wastewater flow at the secondary treatment plant. Most or all the flow from these systems did not reach the land application area.

X2



X2



Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation		Secondary Subpopulation	
X	Systems in which wastewater either did not reach the land application area or did not engage the soil area. These areas were not informative for evaluating land application area performance		
		X3	Systems that exhibited significant infrastructure problems in the land application areas such that the drip dispersal network was not engaged, or not fully engaged.



X3



X3



Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation		Secondary Subpopulation	
A	Land application areas that receive wastewater from systems and engage the soil profile. This subpopulation does support the project design objective of evaluating hydraulic performance.	A1	Land applications areas with no observations that indicate malfunction.

A1



A1



Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation	Secondary Subpopulation
<p>A</p> <p>Land application areas that receive wastewater from systems and engage the soil profile. This subpopulation does support the project design objective of evaluating hydraulic performance.</p>	<p>A2a</p> <p>Land application areas where localized areas of soil saturation and ponding were observed.</p>

A2a



A2a



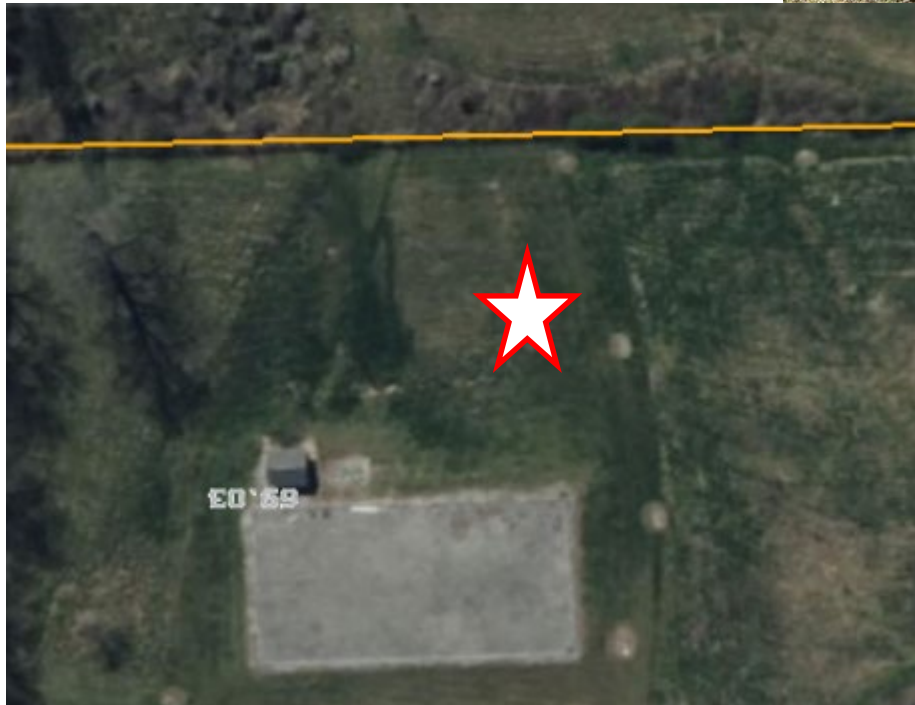
Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation	Secondary Subpopulation
<p>A</p> <p>Land application areas that receive wastewater from systems and engage the soil profile. This subpopulation does support the project design objective of evaluating hydraulic performance.</p>	<p>A2b</p> <p>Land application areas where extensive areas of ponding and/or overland flow (slope dependent) were observed. This includes areas where overland flow remained within the land application area, ran off the land application area, and, in some cases entered drainage features or surface waters.</p>

A2b



A2b



A2b



Residential Land Application System



A2b

Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation	Secondary Subpopulation
<p>A</p> <p>Land application areas that receive wastewater from systems and engage the soil profile. This subpopulation does support the project design objective of evaluating hydraulic performance.</p>	<p>A3</p> <p>Land application areas that were so overgrown that it was impractical to make valid observations of the land application area.</p>

A3



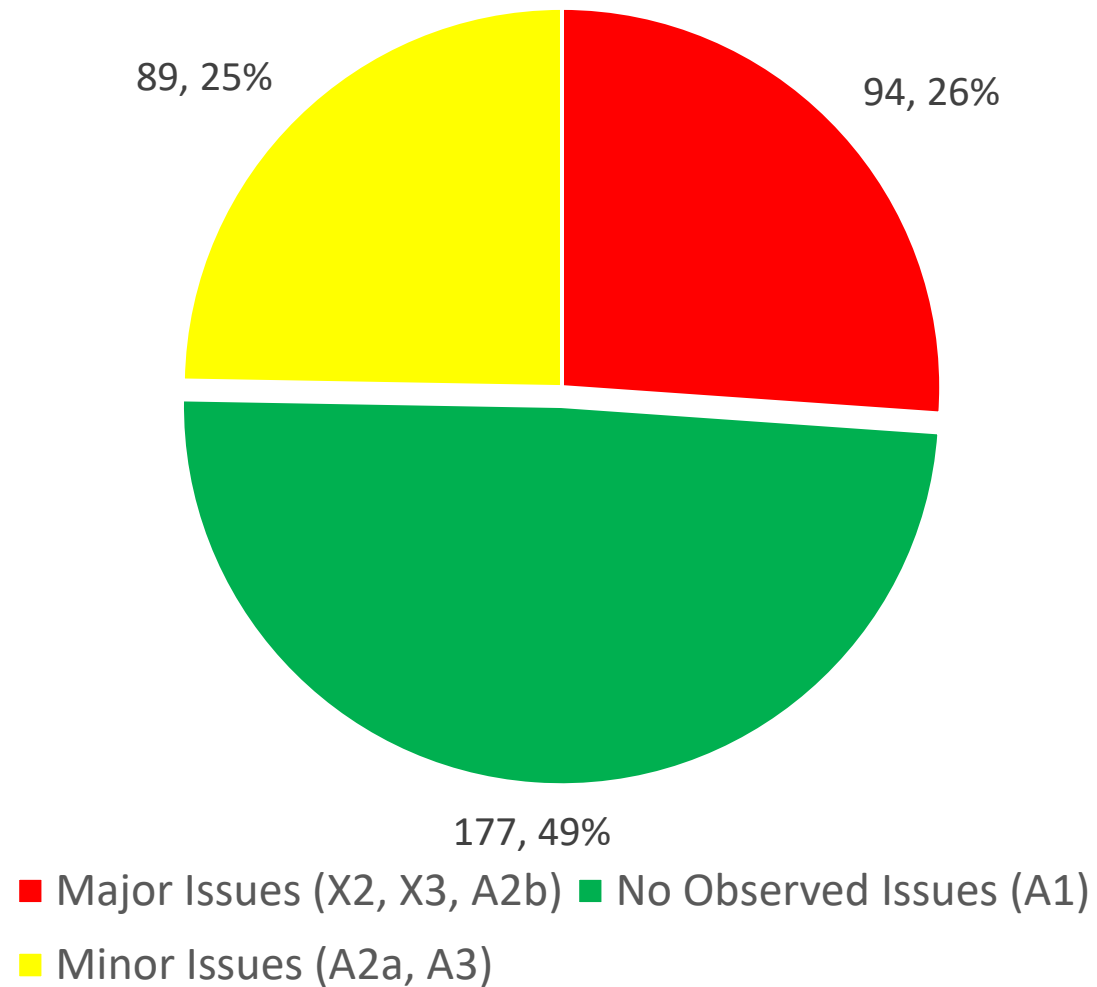
A3



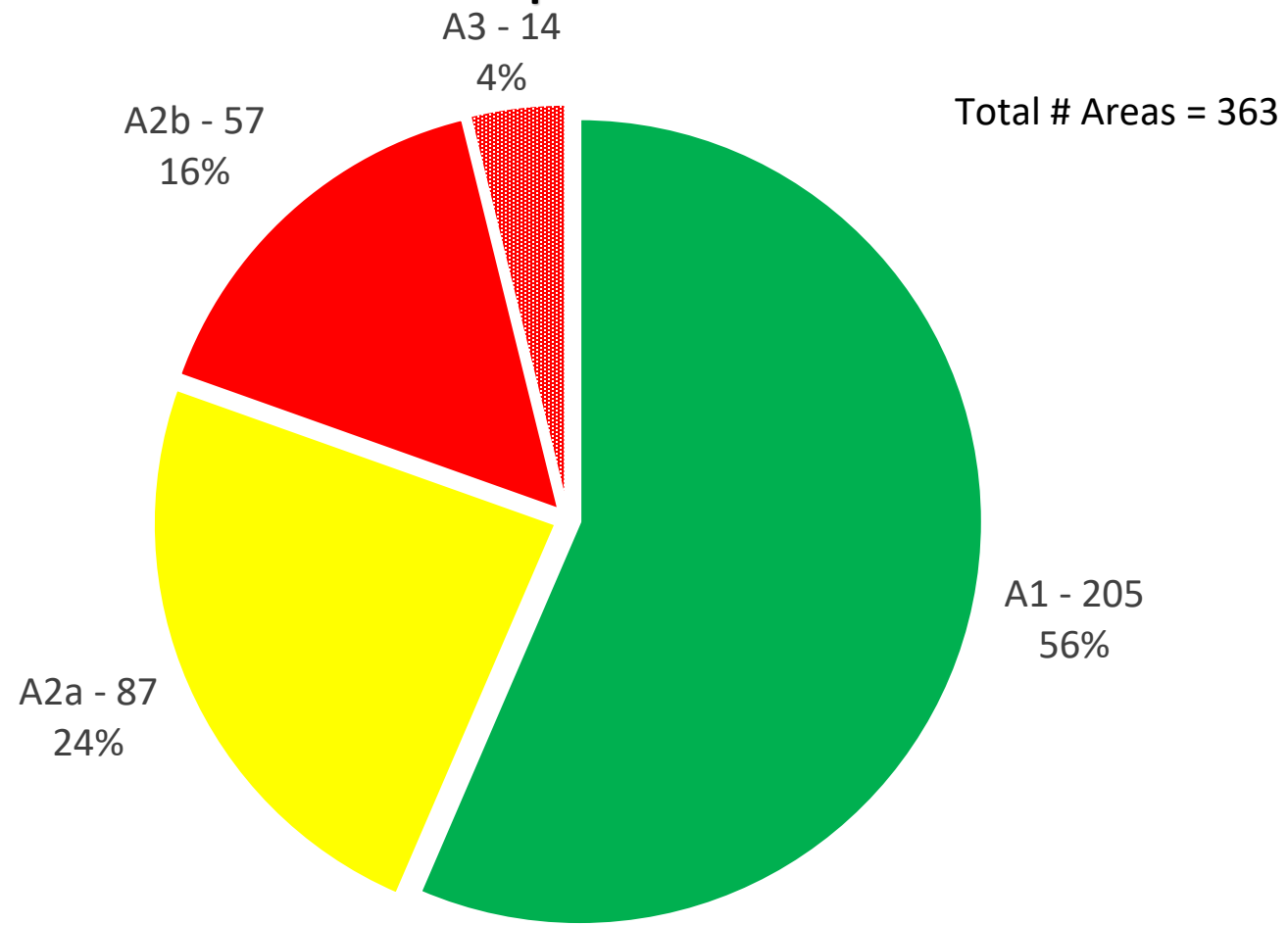
Table 1. Common Characteristics of Populations/Subpopulations

Primary Subpopulation		Secondary Subpopulation	
X	Systems in which wastewater either did not reach the land application area or did not engage the soil area. These areas were not informative for evaluating land application area performance	X1	Systems that were permitted but were not operational. This includes systems that were either not in use or had not been constructed.
		X2	Systems that discharged all or a portion of their wastewater flow at the secondary treatment plant. Most or all the flow from these systems did not reach the land application area.
		X3	Systems that exhibited significant infrastructure problems in the land application areas such that the drip dispersal network was not engaged, or not fully engaged.
A	Land application areas that receive wastewater from systems and engage the soil profile. This subpopulation does support the project design objective of evaluating hydraulic performance.	A1	Land application areas with no observations that indicate malfunction.
		A2a	Land application areas where localized areas of soil saturation and ponding were observed.
		A2b	Land application areas where extensive areas of ponding and/or overland flow (slope dependent) were observed. This includes areas where overland flow remained within the land application area, ran off the land application area, and, in some cases entered drainage features or surface waters.
		A3	Land application areas that were so overgrown that it was impractical to make valid observations of the land application area.

Land Application Systems (Major/Minor/No Problems Noted)



Distribution of Land Application Area Performance Populations



General Summary of Report (June 7, 2024)

1. Over 40 systems (~10%) exhibited conditions indicating the land application area was not being utilized, or not being utilized in support of all flow.
2. Approximately 16% of the land application areas for systems where the drip dispersal system was being engaged exhibited conditions indicating extensive hydraulic overload.
 - a) Many of these may find remedy through closer operator oversight.
 - b) Some of these will likely only find remedy by developing more land application capacity or accessing a POTW.
3. Approximately 1/4th of the land application areas exhibited conditions of localized saturation/ponding.
 - a) These conditions can likely be resolved by consistent, routine maintenance.
4. Over one-half of the land application areas supporting systems where wastewater was being dispersed through drip dispersal did not exhibit indications of malfunction or noncompliance.

Land Application Area Survey – Critical Dates

- December 28, 2023. Email to 120 permittees announcing statewide survey beginning second week of January 2024.
- January 8 – 12, 2024 (second week of Jan). 81% of areas inspected (340 land application areas).
- Third and Fourth Weeks of January. Week of wet weather followed by a week of very cold weather.
- January 29 – February 2, 2024. 15% of areas inspected (63 areas).
- 100% inspected by March 11, 2024 (420 areas total).
- April 24, 2024. Email indicating Notable Noncompliance was sent to 30+ permittees pertaining to 90+ systems. Email announced that these systems would be subject to a compliance inspection in the following weeks.
- May 1, 2024. Email sent to all permittees announcing an in-person/virtual meeting on May 15 at Fleming Training Center to discuss the results of the survey and preview the report.
- May 15, 2024. In-person and virtual meeting conducted at Fleming Training Center.
- June 6, 2024. Reinspection of systems with notable noncompliance began. Completed in early August.
- June 7, 2024. Report and Data Dashboard posted to TDEC DWR's website. Report does not cover the follow-up visits.

Notably Noncompliant System Reinspections

- 94 Systems Identified For Reinspection (X2, X3, and A2b)
 - ~29% did return to compliance*
 - ~50% did not return to compliance*
 - Several were improved but not compliant
 - A few were worse than initial visit
 - ~21% were undetermined
 - Schools (no/minimal summer flow)
 - Overgrown conditions preventing thorough inspection.
 - A noncompliant condition in itself
- * Evaluation of compliance during revisits was not comprehensive.

Looking Forward

TN's Wastewater Toolbox



- Land application through drip dispersal into soil has a place in TN's wastewater management toolbox.
- Keys to the success of any system include:
 - Accurate Soil Maps
 - Conservative Design
 - Detailed/Complete Construction
 - **Operation and Maintenance!!**

Initial Condition vs. Operator Attentiveness



Future Consideration?

1. Comparison of system design flow to actual flow.
2. Determination of drip field installed.
3. Soil suitability and appropriateness of loading rates.
4. Long-term acceptance rates for soils being dosed daily for extended periods of time. Does the utilization of soil in this manner decrease its expected performance longevity?
5. Regular execution of projects similar in scope to the one described in this report and projects that target certain subpopulations for more intensive evaluation.

Questions?



Britton Dotson

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Department of
**Environment &
Conservation**

Tennessee Stream Mitigation Program Settlement

Board of Water Quality, Oil, and Gas October 15, 2024

Background

Mitigation is required under rule 0400-40-07-(07) when a permitted activity will result in appreciable permanent loss of resource values in order to result in no net loss of resource values.

A third-party mitigation provider develops, restores, preserves, and manages the acreage at a bank site and earns mitigation credits based on ecological lift produced, which are then sold to a permittee or developer for a fee.



A scenic view of a forest stream with mossy rocks and lush green trees. The water is clear and flows over several large, dark rocks covered in bright green moss. The surrounding forest is dense with tall trees and vibrant green foliage, creating a serene and natural environment.

Background Continued

Mitigation for physical impacts to streams and wetlands occur in three ways.

- Mitigation Banks - Mitigation is already on the ground. Permittee buys credits at time of permit issuance from bank.
- In Lieu Fee Providers(ILF) – Provider sells advanced credits then projects are put on the ground.
- Permittee Responsible – Permittee proposes mitigation plan and implements as part of permit conditions.

Tennessee Stream Mitigation Program Timeline

- Tennessee Wildlife Resource Foundation establishes Tennessee Stream Mitigation Program(TSMP) in 2002, the first third party stream mitigation provider in TN.
- TSMP is established as a In Lieu Fee Program through a Memorandum of Agreement(MOA) with TDEC, USACE, TVA, EPA, USF&W, and TWRA in late 2002. Those agencies collectively are now known as the Interagency Review Team(IRT).
- TSMP sold advanced credits under the MOA until a new program Instrument was signed in 2013 to satisfy the regulatory requirements of federal 2008 mitigation rule at 33 C.F.R. Part 332.

Timeline Continued

- TSMP sold advanced credits to permittees as early as 2003 but had trouble providing enough projects within the three growing season requirement to satisfy all of the advanced credits sold.
- In May of 2014, the Department in its role as a member of the IRT brought concerns about production of enough credit generation to satisfy all of the TSMP unfulfilled credit liabilities.
- TSMP voluntarily suspended credit sales in 7 of 10 service areas in May 2016.
- The IRT instituted monthly meetings with TSMP and required TSMP to provide a credit production plan to fulfill credit liabilities.

Timeline Continued

- When projects were proposed the IRT required additional documentation or asked TSMP to propose new projects to fulfill credit deficits. However, TSMP was unable to get a mitigation project approved.
- TSMP attempted, at the IRT's urging, a Request For Proposal(RFP) for third party bids for full delivery projects. This resulted in contracting for two full delivery projects by third party providers. These projects were constructed and both in the monitoring phase.

Timeline Continued

- In 2019 the USACE in consultation with the IRT conducted contracted- third party audits of TSMP on both a financial and programmatic aspects.
- On January 22, 2021 the USACE in consultation with the IRT terminated TSMP's instrument ending the ability to sell credits.



Settlement Terms

- TSMP will complete two existing projects which were approved prior to the suspension of the program. These projects have approximately two years of continued monitoring.
- TSMP assets are \$44,755,708. TSMP transferred \$38,462,697 pursuant to the settlement to the National Fish and Wildlife Foundation(NFWF) who will oversee the Request for Proposal(RFP) process in coordination with the IRT. The remaining \$4,393,010 will be used to complete the two existing projects and associated expenses. After which any remaining funds will be transferred to NFWF.
- Additionally, TSMP will sell property in Maury County associated with a project that was never approved for a minimum of \$1,900,000 within six months and transfer the proceeds to NFWF.
- TSMP will provide a final accounting after which it will irrevocably dissolve ending its existence.

RFP Process

- Goal is to produce as many credits as possible across all of TSMP service areas.
- USACE has contracted with NFWF which is a non-profit created by congress in 1984 and is the nations largest private conservation foundation to manage the RFP process in consultation with the IRT.
- IRT has met with NFWF to begin crafting the RFP and will public notice the draft RFP to get input from the public including the mitigation providers and non-profits.
- We anticipate this opportunity for public input beginning in November.

Questions?





Department of
**Environment &
Conservation**

Board Manual

Highlights and Updates

Purpose

- Reference guide for current members
- Orientation for new members
- Share feedback for future updates

Highlights

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- Tab 3 Robert's Rules of Order Guide

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Department of
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Division of Water Resources Updates

April Grippo, Director, Division of Water Resources

Any Old Business?

Thank you for joining us.
Any questions, please direct to
Drake.Smarch@tn.gov