



**State of Tennessee
Department of State**

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February 2, 2026

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**RE: PATRICIA NIX, CHRISTINE MATTHEWS, AND CHRIS PACK V. TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION, APD Case No. 04.30-
255359J**

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, AND GAS

IN THE MATTER OF:

**PATRICIA NIX, CHRISTINE
MATTHEWS, AND CHRIS PACK,
*Petitioners,***

v.

**TENNESSEE DEPARTMENT OF
ENVIRONMENT AND
CONSERVATION,
*Respondent.***

APD Case No. 04.30-255359J

INITIAL ORDER

This matter comes for consideration on the Petitioners' Appeal of National Pollutant Discharge Elimination System (NPDES) Permit TN0070572. On October 28, 2025, the Tennessee Department of Conservation and Environment (Department) filed a Motion to Dismiss Petitioners' appeal, alleging Petitioners lack standing to bring the appeal because they are not an "aggrieved person" as required by TENN. CODE ANN. § 69-3-105(i) This matter has been assigned to Administrative Law Judge Steve R. Darnell, Tennessee Secretary of State, Administrative Procedures Division, and designated by the Tennessee Board of Water Quality, Oil and Gas to hear this contested case on its behalf. Attorney James Marr represents the Department. Attorney Jay B. Jackson represents Petitioners.

FINDINGS OF FACT¹

1. The public comment period for NPDES Permit TN0070572 was from May 21, 2025, through June 23, 2025.

¹ Findings of Fact are based on the undisputed affidavit of Bryan Epperson, Director of the Tennessee Department of Environment and Conservation Division of Mineral and Geologic Resources.

2. No one participated during the public comment period for NPDES Permit TN0070572.

3. No one requested a public hearing during the public comment period.

4. Petitioners did not participate in the public comment period for NPDES Permit TN0070572.

5. Petitioners failed to show, by a preponderance of the evidence, that they are an “aggrieved person” as required by TENN. CODE ANN. § 69-3-105(i).

CONCLUSIONS OF LAW

1. Petitioners bear the burden of introducing evidence that would, by a preponderance of the evidence, prove the issues should be resolved in Petitioner’s favor. TENN. COMP. R. & REGS. 1360-4-1-.02(3).

2. TENNESSEE CODE ANNOTATED § 69-3-105(i) provides as follows:


A petition for permit appeal may be filed by the permit applicant or by any aggrieved person who participated in the public comment period or gave testimony at a formal public hearing whose appeal is based upon any of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Additionally, for those permits for which the department gives public notice of a draft permit, any permit applicant or aggrieved person may base a permit appeal on any material change to conditions in the final permit from those in the draft, unless the material change has been subject to additional opportunity for public comment. Any petition for permit appeal under this subsection (i) shall be filed with the board within thirty (30) days after public notice of the commissioner's decision to issue or deny the permit. Notwithstanding § 4-5-223 or § 69-3-118(a), or any other law to the contrary, this subsection (i) and the established procedures of Tennessee's antidegradation statement, found in the rules promulgated by the department, shall be the exclusive means for obtaining administrative review of the commissioner's issuance or denial of a permit. When such a petition is timely filed, the procedure for conducting the contested case shall be in accordance with § 69-3-110(a). (emphasis added).

DETERMINATION

Based on a review of counsel’s written arguments and the record as a whole, there is no genuine issue of material fact. Petitioners did not participate during the public comment period, and do not qualify as an “aggrieved person” as required by TENN. CODE ANN. § 69-3-105(i). Petitioners lack standing to bring this appeal. Accordingly, the Department’s Motion to Dismiss is well taken and is hereby **GRANTED**. The Notice of Hearing filed on September 24, 2025, is hereby **DISMISSED**. The hearing scheduled for March 17, 2026, is hereby **CANCELLED** and shall be removed from the docket.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **2nd day of February 2026**.



STEVE R. DARNELL
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 **2nd day of February 2026**.

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE TENNESSEE BOARD OF WATER QUALITY, OIL, AND GAS (the Board)**, called an Initial Order, was entered on **February 2, 2026**. 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 **February 17, 2026**. 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.¹

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 **March 4, 2026**.² 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.

¹ 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).

² The deadline to file an appeal of the initial order (15 versus 30 days) in cases brought under the Tennessee Water Quality Control Act of 1977, TENN. CODE ANN. § 69-3-101, et seq., is an issue currently under review in a case before the Tennessee Supreme Court. *Jamesway Construction, Inc. v. David Salyers, P.E.*, No. M2023-01704-SC-R11-CV.

NOTICE OF APPEAL PROCEDURES

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.**

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 **February 9, 2026**. 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@tnsos.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
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