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Stormwater/Wastewater Enforcement: Proposed Tennessee Department of Environment and Conservation Director's Order/Assessment

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The Tennessee Department of Environment and Conservation ("TDEC") issued a January 17th proposed Director's Order and Assessment ("Order") to Hommel Construction ("Hommel") addressing alleged violations of a National Pollution Discharge Elimination System ("NPDES") permit. See Case No. WPC18-0116.

Hommel is stated to own and operate a Sand & Gravel Borrow Pit ("Site") in Cocke County, Tennessee.

The TDEC Division of Water Resources ("Division") is stated to have transmitted NPDES TN0069787 ("Permit") to Hommel for mining activities at the Site. The Permit is stated to have authorized Hommel to discharge treated mine wastewater and stormwater associated with the operations at the Site to the Pigeon River. The Permit is stated to have expired on December 8, 2018.

The Division is stated to have issued a Notice of Expiration ("NOE") to Hommel on December 22, 2017, notifying that the Permit was set to expire on December 8, 2018. The NOE is stated to have reminded Hommel that a renewal application must be submitted at least 180 days before the Permit was to expire.

Division personnel are stated to have performed an NPDES Compliance Evaluation Inspection ("CEI") on February 15, 2018, at the Site. Division personnel are stated to have observed:

- Treatment shown in the plans had not been installed
- The Site lacked the approved sediment basin, pump and pipe system, discharge pit, and culvert under a road to convey the discharge to the receiving stream

Such issues were stated to not be sufficient to qualify as violations because all water at the time was being adequately controlled and no discharge was noted.

Division personnel and representatives for Hommel were stated to have agreed for Site plans to include a treatment basin and wash plant.

A second NOE is stated to have been issued to Hommel on March 29, 2018, that a renewal application was required to be received by the Division on or before June 11, 2018.

The Permit is stated to have expired without the Division's receipt of an application for permit renewal. The alleged failure to submit an application for Permit renewal 180 days prior to the Permit expiration

and operating without a Permit is stated to constitute a violation of the Tennessee Code. The Division issued a Notice of Violation (“NOV”) to Hommel on August 31, 2018.

The Order requires that Hommel within 30 days of its receipt of the NOV submit an application for renewal of the Permit. Further, Hommel is required to maintain compliance with all provisions of the relevant statute and rules for a period of one year from the date of the receipt of the document.

A civil penalty of \$4,898 is proposed.

The Order provides Hommel certain appeal rights.

A copy of the Order can be downloaded [here](#).