



**STATE OF TENNESSEE**  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**  
**Division of Air Pollution Control**  
**William R. Snodgrass Tennessee Tower**  
**312 Rosa L. Parks Avenue, 15<sup>th</sup> Floor**  
**Nashville, TN 37243**

October 16, 2020

Certified Mail  
9414 7266 9904 2154 5143 91

Steve Meadows  
605 Cowan Street  
Nashville, Tennessee 37207-5619

RE: Nashville Ready Mix, Inc.  
Facility Id. 75-0850  
Case No. APC20-0092

Dear Mr. Meadows:

Enclosed please find an Order issued by Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, Tennessee Department of Environment and Conservation, in the above-referenced matter. Please read it carefully and pay special attention to the NOTICE OF RIGHTS section.

If you have any questions regarding this Order, please contact attorney Grant Ruhl at (615) 313-5682 or via e-mail at [Grant.Ruhl@tn.gov](mailto:Grant.Ruhl@tn.gov). For all other questions, please contact the Division at (615) 532-0554 or via e-mail to [air.pollution.control@tn.gov](mailto:air.pollution.control@tn.gov).

Sincerely,

A handwritten signature in blue ink that reads "Kevin McLain".

Kevin McLain  
Section Manager, Enforcement  
Division of Air Pollution Control

vom

Enclosure

**TENNESSEE AIR POLLUTION CONTROL BOARD**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>NASHVILLE READY MIX, INC.</b>	)	<b>DIVISION OF AIR POLLUTION CONTROL</b>
	)	
<b>RESPONDENT</b>	)	<b>CASE NO.      APC20-0092</b>

**TECHNICAL SECRETARY’S ORDER AND ASSESSMENT OF CIVIL PENALTY**

Comes now, Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, and states that:

**PARTIES**

**I.**

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board (“Board”) and Director of the Division of Air Pollution Control (“Division”), Tennessee Department of Environment and Conservation (“Department”).

**II.**

Nashville Ready Mix, Inc. (“Respondent”) is a domestic corporation authorized to do business in the State of Tennessee. Respondent’s facility address is 5441 Hickory Grove Road, Murfreesboro, Tennessee. Respondent’s registered agent for service of process is Steve Meadows, 605 Cowan Street, Nashville, Tennessee 37207-5619.

**AUTHORITY**

**III.**

Pursuant to Tennessee Code Annotated (“Tenn. Code Ann.”) § 68-201-116, the Technical Secretary may assess a civil penalty of up to \$25,000 per day for each day of violation of the Tennessee Air Quality Act (“Act”) or any rules or regulations promulgated thereunder (“Division Rules”) against any person who violates said Act or Division Rules, and/or the Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Division

Rules are violated. In addition, such person may also be liable for any damages to the State resulting therefrom.

**IV.**

Respondent is a “person” within the meaning of Tenn. Code Ann. § 68-201-102 and has violated the Division Rules as hereinafter stated.

**V.**

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof, as stated in Tenn. Code Ann. § 68-201-102.

**VI.**

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated, as stated in Tenn. Code Ann. § 68-201-102.

**VII.**

Respondent operates an “air contaminant source” within the meaning of Tenn. Code Ann. § 68-201-102.

**FACTS**

**VIII.**

On November 19, 2019, the Technical Secretary issued construction permit number 977488 (“Permit 977488”) to Respondent for a concrete batch plant operation.

**IX.**

On or about January 3, 2020, the Division received a start-up certification from Respondent which indicated December 1, 2019, as the date of initial start-up for the concrete batch plant operation. However, Respondent submitted an operating permit application on November 26, 2019, which indicated that September 2019 was the date construction began and was completed

for the concrete batch plant operation. Therefore, Respondent constructed the concrete batch plant operation prior to receiving the construction permit.

**X.**

On July 3, 2020, Respondent submitted monthly concrete production log for the 2019 calendar year to the Division. This log provided monthly production of the concrete for October and November of 2019. Based upon the review of monthly production log and the operating permit application dated November 26, 2019, the operation of the concrete batch plant began before the Technical Secretary issued the construction permit. Therefore, Respondent operated the concrete batch plant operation without first having applied for and obtained the required operating permit.

**XI.**

On August 4, 2020, the Division issued a Notice of Violation to Respondent for the construction and operation of the concrete batch plant, prior to receiving the construction permit and applying for and receiving an operating permit.

**VIOLATION**

**XII.**

By constructing an air contaminant source not specifically exempted by Division Rule 1200-03-09-.04 without first receiving the necessary construction permit, Respondent violated Division Rule 1200-03-09-.01(1)(a), which states:

Except as specifically exempted in Rule 1200-03-09-.04, no person shall begin the construction of a new air contaminant source or the modification of an air contaminant source which may result in the discharge of air contaminants without first having applied for and received from the Technical Secretary a construction permit or, if applicable, submitted a notice of intent and obtained a notice of coverage or authorization, for the construction or modification of such air contaminant source.

### **XIII.**

By operating an air contaminant source not specifically exempted by Division Rule 1200-03-09-.04 without first applying for and receiving the necessary operating permit, Respondent violated Division Rule 1200-03-09-.02(2), which states, in pertinent part:

No person shall operate an air contaminant source in Tennessee without first obtaining from the Technical Secretary an operating permit or, if applicable, submitting a notice of intent and obtaining a notice of coverage or authorization, except as specifically exempted in Rule 1200-03-09-.04.

### **RELIEF**

### **XIV.**

WHEREFORE, PREMISES CONSIDERED, I, Michelle Walker Owenby, Technical Secretary, under the authority vested in me, hereby Order as follows:

1. Respondent is assessed a Civil Penalty in the amount of **\$1,500** for the violation of Division Rules, as discussed herein.

2. Respondent shall pay the assessed Civil Penalty in full as follows: Payments of the civil penalty and/or damages shall be made payable to the “Treasurer, State of Tennessee” and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. The case number, **APC20-0092**, should be clearly shown on the check or money order to ensure that the payment is properly credited. Payment shall be made on or before the 31st day after receipt of this Order and Assessment.

### **DEPARTMENT’S RESERVATION OF RIGHTS**

In issuing this Order and Assessment, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including,

but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action(s).

### **NOTICE OF RIGHTS**

Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b), allow Respondent to appeal this Order and Assessment. To do so, a written petition setting forth the grounds (reasons) for requesting a hearing must be RECEIVED by the Technical Secretary within 30 DAYS of the date Respondent received this Order and Assessment or this Order and Assessment becomes final (not subject to review).

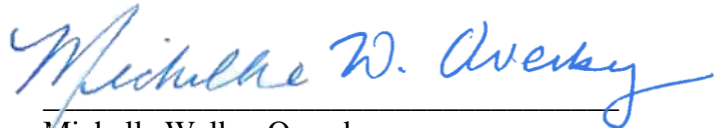
If an appeal is filed, an initial hearing of this appeal will be conducted by an Administrative Law Judge (“ALJ”) as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-201-108(a), Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act), and Tenn. Comp. R. & Regs. 1360-04-01 *et seq.* (the Department of State’s Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. **Artificial respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee.** Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny this Order and Assessment. This includes the authority to modify (decrease or increase) the penalty within the statutory confines of Tenn. Code Ann. § 68-201-116 (up to \$25,000 per day per violation). Furthermore, the ALJ on behalf of the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Any petition for review (appeal) must be directed to the Technical Secretary, Tennessee Division of Air Pollution Control, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks

Avenue, 2nd Floor, Nashville, Tennessee 37243. An appeal may also be filed by sending the petition to the following email address: [TDEC.Appeals@tn.gov](mailto:TDEC.Appeals@tn.gov). Payments of the civil penalty and/or damages shall be made payable to the “Treasurer, State of Tennessee” and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Attn: Tammy Gambill, Division of Air Pollution Control, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243 or via e-mail to [air.pollution.control@tn.gov](mailto:air.pollution.control@tn.gov). Attorneys should contact the undersigned counsel of record. **The case number, APC20-0092, should be written on all correspondence regarding this matter.**

Issued by the Technical Secretary, Tennessee Air Pollution Control Board, Department of Environment and Conservation, on this 16th day of October, 2020.



Michelle Walker Owenby  
Technical Secretary  
Tennessee Air Pollution Control Board

Reviewed by:



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Grant LeMaster Ruhl  
BPR # 036182  
Assistant Counsel  
Department of Environment & Conservation  
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Nashville, Tennessee 37243  
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[Grant.Ruhl@tn.gov](mailto:Grant.Ruhl@tn.gov)