

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:)	DIVISION OF WATER RESOURCES
)	
)	
MAXIE JONES,)	
d/b/a/ TENNESSEE RIVER)	
INVESTORS,)	
)	
)	
)	
RESPONDENT.)	CASE NO. DWS24-0068

DIRECTOR'S ORDER AND ASSESSMENT

NOW COMES April Grippo, Director of the Tennessee Division of Water Resources, and states:

PARTIES

I.

April Grippo is the duly appointed Director of the Division of Water Resources ("Division") by the Commissioner of the Department of Environment and Conservation ("Department"). The Commissioner is responsible for administering the Tennessee Safe Drinking Water Act ("Act"), Tenn. Code Ann. §§ 68-221-701 to -720.

II.

Maxie Jones d/b/a Tennessee River Investors ("Respondent") owns, operates and/or controls Paradise Point, which is a transient non-community public water system (the "System") existing in Hardin County, Tennessee. The physical location of the System is listed as 139 Hearts Delight Lane, Savannah, TN 38372. The System's Public Water System Identification (PWSID) number is TN0005240. Process may be served to Mr. Maxie Jones, 325 Fairway Lane, Counce, TN 38326.

JURISDICTION

III.

Whenever the Commissioner has reason to believe that a violation of the Act has occurred, is occurring, or is about to occur, the Commissioner may order corrective action be taken. Tenn. Code Ann. §§ 68-221-705 and 68-221-712. Further, the Commissioner has authority to assess civil penalties against any violator of the Act. Tenn. Code Ann. §§ 68-221-705 and 68-221-713. The Commissioner also has authority to assess damages incurred by the State resulting from the violation. Tenn. Code Ann. § 68-221-713. The Board of Water Quality, Oil, and Gas has promulgated rules governing operation of public water systems. Tenn. Comp. R. & Regs. Chapter 0400-45-01. The Commissioner may delegate to the Director any of the powers, duties, and responsibilities of the Commissioner under the Act, Tenn. Code Ann. § 68-221-705(12), and has delegated such authority to April Grippo.

IV.

The Respondent is a "person" under the Act. Tenn. Code Ann. § 68-221-703(17). The Respondent is a "supplier of water" under the Act, because he owns, operates, and/or controls a "public water system." Tenn. Code Ann. §§ 68-221-703(22) and 68-221-703(19). The System is a "transient non-community water system." Tenn. Comp. R. & Regs. 0400-45-01-.04(101).

FACTS

V.

The Respondent obtains its water from one well, with a second well currently inoperable. The required testing to determine whether the wells are under the direct influence of surface water or "true ground water" before they are placed into service have not been performed, nor has the

testing for source water approval been performed. The Respondent serves 120 connections and an estimated population of 298 persons.

VI.

Division personnel performed a site visit on January 17, 2023, in response to a water quality complaint at Paradise Point, and determined during this visit that Paradise Point meets the definition of a transient noncommunity public water system. Division personnel met with the Respondent on site and informed him of the regulatory requirements for a public water system, including hiring a certified operator and the need for a site/source approval.

VII.

On April 11, 2023, the Division sent the Respondent a certified letter reaffirming the need to comply with regulations and requirements to apply for a site/source approval. Source approval requirements include determining if the wells are ground water under the direct influence of surface water (GWUDI). The Respondent was also instructed that disinfection would be required and reminded of the requirement to hire a certified operator.

VIII.

Division personnel emailed the Respondent's receptionist, Monica Gray, on June 9, 2023, with a copy of the certified letter concerning sample/testing requirements attached. The letter required submittal of as-built plans for the wells and distribution system. The Division also sent a certified letter to the Respondent regarding site approval and sample/testing requirements on June 9, 2023. The Division's Engineering Services Unit received the plan submission. The plans were inadequate, with only tap locations in the submittal when there should have been specifications, details, calculations, well pump information, and water treatment. There was a correction request entered and an email sent to the Respondent. The Respondent called and was referred to the design

criteria. Division personnel recommended the Respondent engage the services of an engineer at that time. The Respondent has not made a revised submittal to date.

IX.

On or about June 27, 2023, a property owner at Paradise Point called Division personnel and informed them that he had sampled the System's water and the test results from Waypoint Analytical showed an iron concentration of 18.1 mg/L. The property owner followed up with an email of the test results on June 28, 2023. The Maximum Contaminant Level (MCL) for iron is 0.3 mg/L.

X.

The Respondent sampled the well water on August 7, 2023, and the test results from Waypoint Analytical were total coliform positive. The Respondent issued a boil water notice to its customers on August 10, 2023 based on the bacteriological results.

XI.

The Division sent the Respondent a certified letter on August 15, 2023, requesting a Compliance Review Meeting (CRM) on August 22, 2023, which the Respondent attended. At the CRM, Division personnel hand delivered an NOV letter to the Respondent, citing the requirement to take samples for biological and chemical water quality monitoring for each new source prior to being placed in service. The Respondent was instructed to sample the biological and chemical parameters for source approval from the list attached to the letter within fifteen (15) days of receipt of the NOV. The letter also required submittal of as-built plans for the wells and distribution system layout.

XII.

Division personnel performed testing for the secondary drinking water standards on February 22, 2024, and results indicated that the water from well #1 violated Maximum Contaminant Levels (MCL) for iron, manganese, color, and odor. The Respondent was notified of the violations by the Division in a letter dated March 26, 2024, and instructed to submit plans and specifications for treatment sufficient to meet drinking water standards within 60 days of the receipt of the letter. Test results are given in the table below:

Well #1 Analyte	Result	EPA Limits (MCL)
Iron	14 mg/l	0.3 mg/l
Manganese	0.66 mg/l	0.05 mg/l
Color	110 CU	15 CU (color units)
Odor	4.0 TON	3.0 Odor Threshold Number

XIII.

The Division incurred \$2,093.54 in damages while investigating these violations.

VIOLATIONS

XIV.

By failing to perform source water monitoring for the wells and the failure to provide ground water under the influence testing results on the wells, the Respondent has violated Rule 0400-45-01-.34(3)(c), Rule 0400-45-01-.05(12), and Rule 0400-45-01-.34(3)(a)1., which state:

Rule 0400-45-01-.34(3)(c) states:

- (c) New PWS wells must receive site approval from the Department before drilling. New well approval is conditioned upon the PWS complying with all applicable drinking water source approval requirements. Approval of new wells by the

Division of Water Resources will depend on the ability of the PWS to provide the highest degree of reliable control of the area. The Department may deny its approval for new wells to be put into service if these requirements cannot be met.

Rule 0400-45-01-.05(12) states:

- (12) Monitoring of new sources – All new surface or ground water sources added to an existing water system or proposed for use by a new water system shall have the required biological and chemical water quality monitoring completed prior to being placed in service. The parameters to be monitored shall be those required for drinking water for the specific type of system involved.

Rule 0400-45-01-.34(3)(a)1. states:

- (a) Prior to the construction of a new water source, each PWS shall develop a Preliminary Evaluation Report (PER).
 1. For a ground water source, the PER must include significant potential contaminant sources within a one-mile radius. The PWS shall submit the PER with the Engineering Plans and Specification to the Department for approval. After a new ground water source is constructed, a Wellhead Protection Plan shall be developed pursuant to these rules. The PWS shall implement the Wellhead Protection Plan within twelve (12) months of completion of construction of the new source.

New ground water supply sources shall have source approvals in writing by the Department prior to initiation of operation as a public water supply source. An existing water system that was previously not designated as a public water system shall have sixty (60) days upon notification of the determination as a public water system to submit source approval documentation for the Department's review. Source approvals shall include a one-mile radius inventory of significant potential contaminant sources for Category 2, 3 and 4 ground water supplies. . .

XV.

By failing to submit adequate engineering plan documents, the Respondent has violated

Rule 0400-45-01-.05(3), and Rule 0400-45-01-.34(3)(a)1. which state:

Rule 0400-45-01-.05(3) states:

- (3) General Practice - All plan documents for public water system design and construction shall present all information in conformance with accepted engineering practices and the "Design Criteria for community Public Water Systems" as published by the Department.

Rule 0400-45-01-.34(3)(a)1. states:

- (a) Prior to the construction of a new water source, each PWS shall develop a Preliminary Evaluation Report (PER).
 - 1. For a ground water source, the PER must include significant potential contaminant sources within a one-mile radius. The PWS shall submit the PER with the Engineering Plans and Specification to the Department for approval. After a new ground water source is constructed, a Wellhead Protection Plan shall be developed pursuant to these rules. The PWS shall implement the Wellhead Protection Plan within twelve (12) months of completion of construction of the new source.

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XVI.

By failing to provide disinfection of the raw water, the Respondent has violated Rule 0400-45-01-.17(1)(b), which states, in pertinent part:

- (b) A public water system using a ground water source under the direct influence of surface water shall:
 - 1. Meet the requirements for avoiding filtration in paragraph (2) of this rule and meet the disinfection requirements in subparagraph (3)(a) of this rule; or
 - 2. Meet the filtration requirements in paragraph (4) of this rule and the disinfection requirements in paragraph (30) of Rule 0400-45-01-.17.

XVII.

By failing to have a certified drinking water system operator, the Respondent violated Tennessee Code Annotated section 68-221-904(a), Rule 0400-45-01-.17(1)(d), and Rule 0400-49-01-.04(3):

T.C.A. 68-221-904(a) states:

- (a) It is unlawful for any person, firm or corporation, both municipal and private, operating a water supply system or wastewater system, to operate the water treatment plant, wastewater treatment plant, water distribution system, or wastewater collection system unless the competency of the operators in direct charge of such system are duly certified by the commissioner under this part in effect on and after May 25, 1984, or under former chapter 13, part 3 of this title in effect prior to May 25, 1984.

Rule 0400-45-01-.17(1)(d) states:

- (d) Because the proper operation and maintenance of water systems is critical to a system's ability to provide safe water to the public and to comply with these rules, all water supply systems must comply with the provisions of Chapter 0400-49-01. A violation of those rules is a violation of this rule as well.

Rule 0400-49-01.04(3) states:

- (3) All operating personnel making process control/system integrity decisions about water quality or quantity that affect public health must be certified. A designated certified operator must be available for each operating shift.

XVIII.

By failing to provide treatment of the water entering the distribution system below the MCL for iron, manganese, color, and odor, the Respondent has violated Rule 0400-45-01-.12(1) which states, in pertinent part:

- (1) The following maximum contaminant levels are established to provide a water that is aesthetically pleasing to the consumer. These standards will apply to all community water systems and to those non-community water systems as may be deemed necessary by the Department. Monitoring for these contaminants will be set in the Monitoring Program for each system, but in no event less than once every year for a surface and surface/ground supply and once every three years for a ground water supply.

Maximum Contaminant Level

Contaminant	Milligrams per Liter (unless otherwise indicated)
(a) Chloride	250
(b) Color	15 (Color Units)
(c) Copper	1
(d) MBAS (Methyl Blue Active Substance)	0.5

(e) Iron	0.3
(f) Manganese	0.05
(g) Odor	3 (Threshold Odor Number)

ORDER and ASSESSMENT

XIX.

Pursuant to the Act, Tenn. Code Ann. §§ 68-221-705 and -712, the Respondent is issued the following Order and Assessment (“Order”). This case number, DWS24-0068, should be written on all correspondence concerning this matter. All documentation and submittals relating to compliance schedule items should be sent electronically to DWRWater.Compliance@tn.gov or in duplicate to both addresses below:

Conner Franklin, Manager
 Jackson Environmental Field Office
 Division of Water Resources
 1625 Hollywood Drive
 Jackson, TN 38305

AND

Jessica Murphy, Manager
 Enforcement and Compliance Unit
 Division of Water Resources
 Davy Crockett Tower
 500 James Robertson Pkwy
 Nashville, Tennessee 37243

All payments shall be submitted to:

Treasurer, State of Tennessee
 Division of Fiscal Services, Consolidated Fees
 Department of Environment and Conservation
 Davy Crockett Tower, 6th Floor
 500 James Robertson Pkwy
 Nashville, Tennessee 37243

- (1) **The Respondent shall pay \$2,093.54 in damages to the Division on or before the thirty-first day after receipt of this Order.**

- (2) The Respondent is assessed a total civil penalty of \$12,800.00. **The Respondent shall pay \$2,560.00, which is the upfront portion of the total civil penalty, on or before the thirty-first day after receipt of this Order.** The Respondent shall pay the remaining \$10,240.00 only if the Respondent fails to comply with the following corrective action items:
- (3) The Respondent shall submit plans for approval by the Division for initial disinfection within 45 days of the receipt of this Order and begin disinfection within 30 days of Division approval. This disinfection shall continue until such time as the actions for disinfection under the preliminary engineering report (required by item 4 below) have been completed. The Respondent shall pay \$500.00 for the failure to timely submit the plans and \$2,000.00 for the failure to begin disinfection.
- (4) The Respondent shall obtain the services of a professional engineer. The Respondent shall submit proof of contract within 60 days of the receipt of this Order. The Respondent shall submit as-built plans and a preliminary engineering report (PER) to the Division within 120 days of receipt of this Order to include treatment sufficient for the finished water to stay below all MCLs, the modifications to the wells to minimize flooding potential in accordance with design criteria, treatment for GWUDI wells if wells are identified as such, and adequate disinfection. The submittal must include specifications, details, calculations, well pump information, and the necessary water treatment for compliance. The required fees for plans review shall be submitted to the Drinking Water Unit. The Respondent shall pay \$500.00 for the failure to timely contract with a professional engineer and \$1,000.00 for the failure to timely submit the as-built plans and PER.

The Respondent shall pay \$3,464.00 for the failure to implement the actions from the Division approved PER within 45 days of Division approval.

- (5) The Respondent shall pay a penalty of \$150.00, not to exceed \$750.00, for each failure to perform the chemical monitoring as required in the Division-approved chemical monitoring schedule, payable within 30 days of the Division's demand for payment.
- (6) The Respondent shall perform GWUDI testing within 90 days of receipt of this Order, and submit the results within 30 days after testing. The Respondent shall pay \$526.00 for the failure to timely submit the test results.
- (7) The Respondent shall obtain the services of a certified operator within 45 days of the receipt of this Order and provide proof of contract. The Respondent shall pay \$1,500.00 for the failure to timely obtain the services of a certified operator.

The Director may, for good cause shown, extend the compliance dates contained within this Order and Assessment. To be eligible for this time extension, the Respondent shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any such extension by the Director will be in writing. Should the Respondent fail to meet the requirement by the extended date, an associated civil penalty shall become due 30 days thereafter.

Failure to comply with any of the requirements of this Order and Assessment could lead to further enforcement actions, which may include additional civil penalties, assessment of damages, and/or recovery of costs.

This Order and Assessment shall be considered closed no later than two years after the Order becomes effective, provided all requirements of the Order and Assessment have been met, any outstanding penalties have been paid, and Respondent is in substantial compliance with the Act.

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.

NOTICE OF RIGHTS

The Respondent may appeal this Order. Tenn. Code Ann. §§ 68-221-712 and 68-221-713. To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Commissioner within 30 days of the date the Respondent received this Order and Assessment, or this Order and Assessment will become final.

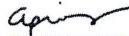
If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing. Tenn. Code Ann. § 68-221-714; Tenn. Code Ann. § 4-5-301 to -326 (the Uniform Administrative Procedures Act); Tenn. Comp. R. & Regs. 1360-04-01 (the Department of 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. No one may represent another person in a contested case proceeding unless they are an attorney licensed to practice law in Tennessee. Governments and artificial persons (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 the Order. 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 must be directed to the Commissioner of the Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Davy Crockett Tower, 500 James Robertson Pkwy, 5th Floor, Nashville, Tennessee 37243. An appeal may also be filed by sending the petition to the following email address: TDEC.Appeals@tn.gov. Attorneys should contact the undersigned counsel of record. **The case number, DWS24-0068, should be written on all correspondence regarding this matter.**


Issued by the Director of the Division of Water Resources, Department of Environment and Conservation, on this 19 day of September, 2024.



April Grippo (Sep 19, 2024 13:01 CDT)

April Grippo, Director
Division of Water Resources
Department of Environment and Conservation

Reviewed by:



Samantha Buller-Young (Sep 17, 2024 13:48 EDT)

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