

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

PETITION FOR DECLARATORY ORDER

NOTICE OF HEARING

(As required Under T.C.A. §4-5-224)

- | | | | |
|----|--------------------------------|---|--|
| 1. | Petitioners' Name: | E. Ron Pickard & Linda Pickard, as trustees of the Sharon Charitable Trust and as individuals | |
| 2. | Petitioner's Attorneys: | Elizabeth L. Murphy | W. David Bridgers |
| | Address: | 1102 17 th Avenue, South
Suite 401
Nashville, TN 37212 | Neal & Harwell, PLC
150 Fourth Avenue, North
Suite 2000
Nashville, TN 37219 |
| | Telephone Number: | (615) 327-0404 | (615) 244-1713 |

Background:

On June 26, 2007, the Tennessee Department of Environment and Conservation ("TDEC" or "the Department") received an application from Tennessee Materials Corp. ("Tennessee Materials") requesting a National Pollutant Discharge Elimination System ("NPDES") permit for the proposed Highway 69 Quarry in Hardin County, Tennessee. Public notice was given pursuant to Tenn. Admin. Comp. Ch. 1200-4-5-.06, comments from the public were received, and a public hearing was held on October 9, 2008 at Pickwick Landing State Park Conference Center, Hardin County, Tennessee. On March 13, 2009, the Department issued NPDES permit number TN0079804, authorizing Tennessee Materials Corp. to discharge treated wastewater and stormwater from its facility (latitude 35° 06' 42", longitude 88° 09' 45") located in Hardin County to an unnamed tributary to Horse Creek.

On April 11, 2009, E. Ron Pickard & Linda Pickard, as trustees of the Sharon Charitable Trust and as individuals ("Petitioners") filed a Permit Appeal and Declaratory Order Petition, seeking a determination by the Tennessee Water Quality Control Board as to the validity and applicability of the Antidegradation Rule and the Tennessee Water Quality Control Act's ("TN-WQCA") prohibition against issuing a permit for an activity that would cause a condition of pollution (Tenn. Code Ann. § 69-3-108(e)). The site, as described in permit number TN0079804, is located southeast of Savannah, Tennessee, on Highway 69 at the intersection with Pyburn Road, in Hardin County, Tennessee. Discharges from Outfall 001 at the site will enter an unnamed tributary to Horse Creek.

Summary of the relief requested:

The Petitioners have requested a ruling from the Tennessee Water Quality Control Board: (1) as to the validity and applicability of the Antidegradation Rule, Tenn. Admin. Comp. Ch. 1200-4-3-.06, and Tenn. Code Ann. § 69-3-108(e) as it relates to allowing discharges that have not been assessed; and (2) seeking a determination that the issuance of NPDES permit number TN0079804 violates Tenn. Code Ann. § 69-3-108 including subsection (e) in that the restrictions of the permit are not consistent with the Antidegradation Rules, and the permit would cause a condition of pollution either by itself or in combination with other conditions and the parameters in the permit are not in compliance with the most restrictive state or federal water quality limits.

The Board will convene a contested case hearing in this matter on October 20-21, 2009

If you are interested in intervening or participating in this case in any way or think that you may be affected by the possible outcome of this case, you must file a Petition to Intervene, stating your specific interest(s) in the case and your legal position/argument regarding those interests.

Administrative Procedures
Docket Number:

04.30-102528A

Your petition must be filed with:

Tennessee Secretary of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
8th Floor, William R. Snodgrass Bldg.
Nashville, TN 37243-1102
(615) 741-2078

Copies must also go to:

Patrick N. Parker and Emily H. Yao
Tennessee Dept. of Environment & Conservation
Office of General Counsel
20th Floor L&C Tower
401 Church Street
Nashville, TN 37243-1548
(615) 532-0131

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