

LAW DEPARTMENT

**Shauna R. Billingsley, Esq.**  
City Attorney  
Also Licensed in Texas



HISTORIC  
**FRANKLIN**  
TENNESSEE

July 3, 2017

**VIA HAND DELIVERY**

Commissioner of the Department of  
Environment and Conservation  
c/o Jenny L. Howard, General Counsel  
Tennessee Department of Environment & Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue  
Nashville, TN 37243-1102

Tisha Calabrese-Benton  
Director  
Division of Water Resources  
Tennessee Department of Environment & Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue  
Nashville, TN 37243-1102

Re: **City of Franklin NPDES Permit Appeal, Permit No. TN0028827**

Dear Ms. Howard and Ms. Calabrese-Benton:

Enclosed please find an appeal of the above referenced NPDES Permit by the City of Franklin.  
Please let me know if you have any questions pertaining to this matter.

Sincerely,

*Shauna R. Billingsley* by *KCC*  
Shauna R. Billingsley *with permission*  
City Attorney

Enclosure

cc: Patrick Parker, Esq.  
Stephanie A. Durman, Esq.  
Eric Stuckey  
Mark Hilty  
Gary Cohen, Esq.  
J.W. Luna, Esq.

**BEFORE THE TENNESSEE BOARD OF WATER QUALITY, OIL AND GAS**

In the Matter of:	)	
	)	
<b>City of Franklin, Tennessee,</b>	)	
NPDES Permit No. TN00288827	)	
	)	
Petitioner,	)	No.
	)	
v.	)	
	)	
<b>Commissioner, Tennessee Department of Environment and Conservation,</b>	)	
	)	
	)	
Respondent.	)	
	)	
	)	

**APPEAL OF PERMIT AND PETITION FOR HEARING**

The City of Franklin, Tennessee (“City of Franklin” or “Franklin”), pursuant to Tenn. Code Ann. §§ 69-3-105(i) and 69-3-110(a) and Tenn. Comp. R. & Reg. Ch. 0400-04-5-.12, hereby appeals conditions of the National Pollutant Discharge Elimination System (“NPDES”) permit reissued by Tennessee Department of Environment and Conservation (“TDEC”) on June 1, 2017, to the City of Franklin for the Franklin Water Reclamation Facility.

In support of its request, Franklin provides:

1. The City of Franklin is a municipal corporation.
2. The State of Tennessee’s NPDES program was approved by the U.S. Environmental Protection Agency on or about December 28, 1977. TDEC issues NPDES permits in the State of Tennessee for, *inter alia*, discharges of wastewater from publicly owned treatment works.

3. On or about September 30, 2010, TDEC issued NPDES permit No. TN00288827 to the City of Franklin (“prior NPDES Permit”). Said permit was due to expire on November 30, 2011, and has been administratively continued.

4. On or about June 1, 2017, TDEC reissued NPDES permit No. TN00288827 to the City of Franklin.

5. Franklin appeals the terms and conditions of the reissued NPDES permit(s) as set forth below. Comments raised by Franklin during the NPDES permit comment period set forth Franklin’s objections to the NPDES permit conditions. Furthermore, Franklin also bases its appeal of the following permit conditions to the extent such permit conditions arise from a material change from the standard that was set forth in the draft permit.

A. Part 1.0. Effluent Limitations and Monitoring Requirements – Phosphorus, Total (as P) Effluent Limitations:

i. Total phosphorus (TP) limits should be no more stringent than Franklin’s prior NPDES permit.

ii. TP limits should be no more stringent than the prior NPDES permit pending a new TMDL. TDEC has specifically noted that a new TMDL is being undertaken that may result in more or less stringent total phosphorus effluent limitations in the future. Pending any change to the TMDL, the existing TMDL reflects the determination that no phosphorus limit is necessary for Franklin.

iii. The City of Franklin, without waiving its rights, further appeals the total phosphorus limits as calculated to result in a total annual average limit of 63,693 lbs/yr. If TP limits more stringent than those set forth in the prior NPDES permit are deemed to be appropriate, the limits should be higher than 63,693 lbs/yr.

iv. Total phosphorus effluent limitations should be expressed as an annual average, not as a rolling annual average.

B. Permit Limits Based Upon the City's Past Performance (also referred to by TDEC as "Hold-the-Line" permit limits): To the extent that other appeal(s) of the Franklin reissued permit, if applicable, seek to impose more stringent nutrient or other pollutant effluent limitations upon Franklin based upon the City's past performance (or based upon a concept referred to as Hold-the-Line permit limits), the City challenges the basis, legal authority, and the technical means in which existing permit conditions, as well as the challenged permit limitations, are being calculated.

C. Optimization: To the extent that other appeal(s) of the Franklin reissued permit, if applicable, seek to impose more stringent plant optimization requirements (*e.g.*, a more stringent action level), the City appeals the plant optimization requirements.

6. Stay of Permit Conditions: Except as otherwise provided by future actions, the City of Franklin hereby waives its right to have any of the 16 MGD permit conditions stayed pending resolution of this appeal as long as such permit conditions do not trigger anti-backsliding or anti-degradation standards impacting the potential ability to have the permit conditions changed.

7. Reservation of Rights: To the extent that other appeal(s) of the Franklin reissued permit, if applicable, seek to impose any more stringent requirement than that contained in the reissued NPDES permit, the City reserves the right to argue that those conditions should be made less stringent. Identification of those specific permit conditions are set forth in the appeals of other(s), as applicable.

WHEREFORE, the City of Franklin hereby appeals the above-referenced terms and conditions of its NPDES permit and requests a hearing pursuant to Tenn. Code Ann. § 69-3-110(a). Franklin requests that the NPDES permit be modified, eliminating or appropriately modifying the challenged conditions, in accordance with this Appeal. The City further requests such additional relief to which it may be entitled.

DATED: July 3, 2017

Respectfully submitted,

*Shauna R. Billingsley* <sup>by KAC</sup>  
*uf express permission*  
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