



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

Division of Water Resources  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 11th Floor  
Nashville, Tennessee 37243

September 8, 2020

Michelle Hatcher, P. E.  
Director, Water Management Department  
City of Franklin  
405 Hillsboro Road  
Franklin, Tennessee 37064

Subject: reissuance of Aquatic Resource Alteration Permit  
NRS12.195-19; Harpeth River in Williamson County

Dear Ms. Hatcher:

The Division has reviewed your application to reissue the permit that authorizes withdrawal of up to 7,800 gallons per minute of water from the Harpeth River for use as municipal water supply by the City of Franklin. The Aquatic Resource Alteration Permit has been reissued with an effective date of August 14, 2020 (enclosed).

The Division has reasonable assurance the activity as proposed and in accordance with all permit conditions herein will not violate applicable water quality standards. The attached permit (enclosed) authorizes the activity pursuant to *The Tennessee Water Quality Control Act of 1977* (T.C.A. §69-3-101 et seq.).

The state of Tennessee may modify, suspend or revoke this authorization or seek modification or revocation should the state determine that the activity results in more than an insignificant violation of applicable water quality standards or violation of the TWQCA. Failure to comply with permit terms may result in penalty in accordance with T.C.A. §69-3-115.

It is the responsibility of the permittee to read and understand all permit conditions before the project begins. If you need any additional information or clarification, please contact me at 615-532-0710 or by e-mail at [robert.d.baker@tn.gov](mailto:robert.d.baker@tn.gov).

Sincerely,

Robert Baker  
Natural Resources Unit

Enclosure

Cc: Robbie Sykes, U. S. Fish & Wildlife Service; Cookeville, TN.  
Ashley Monroe, U. S. Environmental Protection Agency; Atlanta, GA.  
Rob Todd, Tennessee Wildlife Resources Agency; Nashville, TN.  
Bill Murph, Div. Water Resources; Nashville Env. Field Office



**Aquatic Resource Alteration Permit NRS12.195-19**

Pursuant to the Tennessee Water Quality Control Act of 1977 (T.C.A. §§ 69-3-101 et seq.) and supporting regulations, a permit is required to alter the properties of waters of the state. Also, pursuant to section 401 of the Clean Water Act (33 U.S.C. § 1341), an applicant for a federal license or permit which may result in a discharge into the waters of the U.S., shall provide the federal licensing or permitting agency a certification from the State in which the discharge will originate. Accordingly, the Division of Water Resources requires reasonable assurance that the activity will not violate provisions of the Tennessee Water Quality Control Act of 1977 (T.C.A. §§ 69-3-101 et seq.) or provisions of sections 301, 302, 303, 306 or 307 of the Clean Water Act.

Subject to conformance with accepted plans, specifications, and other information submitted in support of the application, the state of Tennessee hereby certifies pursuant to 33 U.S.C. § 1341, and permits pursuant to T.C.A. § 69-3-108(b), the activity described below:

**PERMITTEE**           City of Franklin  
                            Water Management Department  
                            405 Hillsboro Road  
                            Franklin, Tennessee 37064

**AUTHORIZED WORK**       This permit authorizes withdrawal of water at 20 percent of the instantaneous flow of the river up to a maximum pumping rate of 7,800 gallons per minute from the Harpeth River for use as municipal water supply by the City of Franklin. The withdrawal is used to fill an off river open earthen reservoir. The reservoir has a design capacity 114-million-gallons raw water storage from which water is pumped to the treatment plant when needed. Withdrawal is not authorized if it reduces or occurs at instream flows below 10.0 cubic feet per second, or when dissolved oxygen concentrations are at or below 5.0 parts per million.

**LOCATION**   Harpeth River in Franklin, Williamson County

**EFFECTIVE DATE**           August 14, 2020

**EXPIRATION DATE**         August 13, 2025

A handwritten signature in blue ink, appearing to read "J. R. S.", is written over a horizontal line. The signature is fluid and cursive.

\_\_\_\_ FOR :\_\_

Jennifer Dodd Director  
Division of Water Resources

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## **PART I**

### **Authorized Alterations**

This permit authorizes withdrawal of water at 20 percent of the instantaneous flow of the river up to a maximum pumping rate of 7,800 gallons per minute from the Harpeth River for use as municipal water supply by the City of Franklin. The withdrawal is used to fill an off river open earthen reservoir. The reservoir has a design capacity 114-million-gallons raw water storage from which water is pumped to the treatment plant when needed. Withdrawal is not authorized if it reduces or occurs at instream flows below 10.0 cubic feet per second, or when dissolved oxygen concentrations are at or below 5.0 parts per million.

The withdrawal is in the Harpeth River in Franklin, Williamson County

### **Special Conditions**

1. River flow in the Harpeth River shall not be reduced below 10.0 cubic feet per second (cfs) as a result of the withdrawal, nor shall withdrawal proceed when the flow in the river is below 10.0 cfs as measured by the USGS gage 0343233905 HARPETH RIVER NEAR FRANKLIN.
2. The rate at which water is withdrawn from the river shall not exceed 20 percent of the river's instantaneous, pre-withdrawal flow.
3. Withdrawal from the Harpeth River shall not occur when the dissolved oxygen in the river at the approved monitoring location is at or below 5.0 parts per million as measured by the USGS gage 0343233905 HARPETH RIVER NEAR FRANKLIN.
4. River flow shall be measured to represent instantaneous river flow as background, pre-withdrawal flow at the location of withdrawal. River flow shall be recorded and reported monthly to the department (see Part II, Monitoring Requirements and Procedures).
5. Withdrawal rate shall be measured, recorded, and reported monthly to the department (see Part II, Monitoring Requirements and Procedures).
6. Biological health of the source river shall be monitored annually during the duration of this permit (see Part II, Monitoring Requirements and Procedures).
7. To ensure uninterrupted drinking water service to the City of Franklin's customers during unique circumstances associated with emergency conditions, the city may submit for review, alternative withdrawal conditions and associated conservation measures to protect public health and welfare under emergency conditions. In order to withdraw under alternative conditions, the City must obtain written authorization from the department.

### **General Conditions**

1. The activity shall be accomplished in conformance with the accepted plans, specifications, data and other information submitted in support of the application and the limitations, requirements and conditions set forth herein.
2. Adverse impact to formally listed state or federal threatened or endangered species or their critical habitat is prohibited.
3. This permit does not authorize adverse impacts to cultural, historical or archeological features or sites.
4. Work shall not commence until the permittee has obtained all necessary authorizations pursuant to applicable provisions of §10 of The Rivers and Harbors Act of 1899; §404 of The Clean Water Act

and §26a of The Tennessee Valley Authority Act, as well as any other federal, state or local laws.

5. The reporting of results shall be rounded to the closest higher or lower number, as applicable, to correspond to the number of decimal points set forth in a permit condition herein. Instream river flow may be reported using the USGS convention of resolution to a tenth of cfs for flows below 10 cfs, and whole numbers for flows at or above 10 cfs.
6. Compliance with the terms of this permit shall be based on the provisional instantaneous background flow measurements from the instream flow monitor, and the provisional dissolved oxygen measurements from the dissolved oxygen monitor.

## **PART II**

### **Monitoring Requirements and Procedures**

#### **Flow Monitoring**

1. River flow shall be measured to represent instantaneous river flow as background, pre-withdrawal flow at the location of the withdrawal.
2. Instantaneous river flow data shall be recorded at a minimum on an hourly basis.

#### **Withdrawal Monitoring**

1. Withdrawal rate shall be measured as the instantaneous rate pumped from the river.
2. Withdrawal rate data shall be recorded at a minimum on an hourly basis.

#### **Dissolved Oxygen Monitoring**

1. Dissolved Oxygen levels in the river shall be measured instantaneously, as close to mid-channel and mid-depth as practicable, to represent background, pre-withdrawal levels at the location of the withdrawal.
2. Dissolved Oxygen shall be measured with a minimum resolution of 0.01 mg/L and accuracy of  $\pm 0.2$  mg/L.
3. The accuracy of dissolved oxygen data must be calibrated and verified at a frequency as to assure and demonstrate compliance with all permit conditions, and per the manufacturer's recommendation. Should the permittee utilize a dissolved oxygen monitor installed and maintained by USGS, the permittee shall not be held responsible for maintenance issues beyond its control. To the extent certification is required of the dissolved oxygen monitor owned and maintained by USGS, the City is not required to certify data from said monitor.
4. Instantaneous dissolved oxygen data shall be recorded at a minimum on an hourly basis.

#### **Biological Monitoring**

1. Benthic macro-invertebrate biological surveys shall be conducted, in conjunction with the permittee's NPDES benthic monitoring, annually during low flow, high temperature conditions.
2. The surveys shall be conducted by qualified biologists, who may be employees of the permittee, following the Semi-Quantitative Single Habitat Sample procedure found in the most current version of TDEC's Quality System Standard Operating Procedure for Macroinvertebrate Stream Surveys (QSSOP).
3. The sites selected must provide riffle habitat and must be generally comparable. Sampling shall be conducted at one site upstream of the intake and one site downstream of the intake. Sampling sites chosen for this permit and surveys conducted to fulfill the requirements of this permit may

also be used to fulfill the requirements of the City's NPDES Permit TN0028827 and vice versa, upon approval by the department.

4. Prior to each annual sampling event, all selected river-sampling points shall be marked on a topographical map, submitted to and approved by the Nashville Environmental Field Office, Division of Water Resources. The permittee shall notify that office at least two weeks prior to conducting the biological survey.
5. The bio-survey will incorporate habitat assessment at each station for each sampling effort, as described in the QSSOP.
6. The following data and information shall be recorded at each station during biological surveys:
  - a. water temperature (°C)
  - b. dissolved oxygen (mg/L)
  - c. pH (s.u.)
  - d. specific conductance (umhos/cm)
  - e. river flow (cfs)

#### **Submission of Monitoring Results**

Monthly reports shall include the following data measured on an hourly basis: provisional, instantaneous river flow (cfs), maximum withdrawal rate (cfs), maximum percent of instantaneous flow withdrawn, and dissolved oxygen (mg/L).

1. When the pumps are not in operation, the permittee need only indicate on their monthly reporting that no withdrawal occurred during that time interval.
2. Any violations of permit conditions shall be noted on the monthly reports.
3. Monthly reports may be submitted electronically to the department at [water.permits@tn.gov](mailto:water.permits@tn.gov).
4. Submittals shall be postmarked or sent electronically no later than 15 days after the completion of each monthly reporting period.
5. Results of the annual biological river monitoring shall be submitted to the department at [water.permits@tn.gov](mailto:water.permits@tn.gov). Reports shall be submitted annually by December 31 of each year.

#### **Records Retention**

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation shall be retained for a minimum of five (5) years, or longer, if requested by the Division of Water Resources.

#### **Falsifying Results and/or Reports**

Knowingly making any false statement on any report required by this permit or falsifying any result may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Water Pollution Control Act, as amended, and in Section 69-3-115 of the Tennessee Water Quality Control Act.

### **PART III**

#### **Duty to Reapply**

Permittee is not authorized to discharge or conduct an activity that alters the properties of waters of the state after the expiration date of this permit. In order to receive authorization to discharge or to conduct an

activity that alters the properties of waters of the state beyond the expiration date, the permittee shall submit such information and forms as are required to the director of the Division of Water Resources. Such applications must be properly signed and certified.

If any portion of the permitted activities, including the authorized impacts to water resources, compensatory mitigation requirements, or post-project monitoring is not completed before the expiration date of this permit **the permittee must apply for permit extension or re-issuance**. The permittee shall submit such information and forms as are required to the director of the Division of Water Resources at least ninety (90) days prior to its expiration date. Such applications must be properly signed and certified.

### **Property Rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

### **Water Rights**

The waters of Tennessee are the property of the state and are held in public trust for the use of the people of the state. This permit does not grant or convey any prescriptive rights, appropriation, or allocation of water, nor does it authorize any injury to the riparian rights of others.

### **Other Permits**

This permit does not preclude requirements of other federal, state or local laws. This permit also serves as a state of Tennessee aquatic resource alteration permit (ARAP) pursuant to the *Tennessee Water Quality Control Act of 1977* (T.C.A. §69-3-101 et seq.).

### **Other Information**

If the permittee becomes aware that he/she failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the director, then he/she shall promptly submit such facts or information.

### **Changes Affecting the Permit Transfer/Change of Ownership**

This permit may be transferred to another party, provided there are no activity or project modifications, no pending enforcement actions, or any other changes which might affect the permit conditions contained in the permit, by the permittee if:

1. The permittee notifies the Director of the proposed transfer at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage, and contractual liability between them; and
3. The Director does not notify the current permittee and the new permittee, within 30 days, of his or her intent to modify, revoke, reissue, or terminate the permit, or require that a new application be filed rather than agreeing to the transfer of the permit.
4. The permittee must provide the following information to the division in their formal notice of intent to transfer ownership:
  - a. the permit number of the subject permit;
  - b. the effective date of the proposed transfer;
  - c. the name and address of the transferor;

- d. the name and address of the transferee;
- e. the names of the responsible parties for both the transferor and transferee;
- f. a statement that the transferee assumes responsibility for the subject permit;
- g. a statement that the transferor relinquishes responsibility for the subject permit;
- h. the signatures of the responsible parties for both the transferor and transferee, and;
- i. a statement regarding any proposed modifications to the permitted activities or project, its operations, or any other changes which might affect the permit conditions contained in the permit.

### **Change of Mailing Address**

The permittee shall promptly provide to the director written notice of any change of mailing address. In the absence of such notice the original address of the permittee will be assumed to be correct.

### **Noncompliance**

#### **Effect of Noncompliance**

All discharges shall be consistent with the terms and conditions of this permit. Any permit noncompliance constitutes a violation of applicable state and federal laws and is grounds for enforcement action, permit termination, permit modification, or denial of permit reissuance.

#### **Reporting of Noncompliance**

##### **24-Hour Reporting**

1. In the case of any noncompliance which could cause a threat to public drinking supplies, or any other discharge which could constitute a threat to human health or the environment, the required notice of non-compliance shall be provided to the Division of Water Resources in the appropriate Environmental Field Office within 24-hours from the time the permittee becomes aware of the circumstances. (The Environmental Field Office should be contacted for names and phone numbers of environmental response personnel).
2. A written submission must be provided within five (5) days of the time the permittee becomes aware of the circumstances unless this requirement is waived by the director on a case-by-case basis. The permittee shall provide the director with the following information:
  - a. A description of the discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. The steps being taken to reduce, eliminate, and prevent recurrence of the non-complying discharge.

##### **Scheduled Reporting**

For instances of noncompliance which are not reported under subparagraph a. above, the permittee shall report the noncompliance by contacting the permit coordinator, and provide all information concerning the steps taken or planned to reduce, eliminate, and prevent recurrence of the violation and the anticipated time the violation is expected to continue.

##### **Adverse Impact**

The permittee shall take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with this permit, including but not limited to, accelerated or additional



monitoring as necessary to determine the nature and impact of the noncompliance. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## **Liabilities**

### **Civil and Criminal Liability**

Nothing in this permit shall be construed REMOVE UNDERLINE to relieve the permittee from civil or criminal penalties for noncompliance. Notwithstanding this permit, the permittee shall remain liable for any damages sustained by the state of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge of pollutants to any surface or subsurface waters. Additionally, notwithstanding this Permit, it shall be the responsibility of the permittee to conduct its discharge activities in a manner such that public or private nuisances or health hazards will not be created.

### **Liability under State Law**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or the *Federal Water Pollution Control Act*, as amended.

## **Reopener Clause**

This permit may be modified, suspended, or revoked for cause, including:

1. Violation of any of the terms or conditions of this permit or of T.C.A § 69-3-101 et. seq.;
2. Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts;
3. A change in any condition that requires either a temporary or permanent change in the conditions of this permit.

## **Appeal**

An appeal of this action may be made as provided in T.C.A. §69-3-105(i) and Rule 0400-40-05-.12 by submitting a petition for appeal:

1. The petition must be filed within THIRTY (30) DAYS after public notice of the issuance of the permit.
2. The petition must specify the provisions subject to appeal and the basis for the appeal.
3. The petition should be addressed to the technical secretary of the Tennessee Board of Water Quality, Oil and Gas at the following address: Jennifer Dodd, Director, Division of Water Resources, William R. Snodgrass - Tennessee Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee 37243-1102, or you may submit such petition electronically to [TDEC.Appeals@tn.gov](mailto:TDEC.Appeals@tn.gov). Any hearing would be in accordance with T.C.A. §§69-3-110 and 4-5-301 et seq.