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## **TCWN Finds State Launches Expedited Enforcement Program for Tennessee's #1 Water Polluter**

***FOR IMMEDIATE RELEASE:  
July 18, 2006***

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(Knoxville, TN) Tennessee Clean Water Network recently discovered the TN Department of Environment and Conservation (TDEC) launched an expedited construction stormwater enforcement process this May. This is the Department's latest effort to decrease the number of water pollution violations from construction sites. The Tennessee Clean Water Network supports TDEC's first steps to more effectively enforce our clean water laws and advises this program and future programs should include goals of increasing water quality and decreasing pollution impacts on Tennessee's communities.

"TDEC has a responsibility to demonstrate its commitment to improve water quality through out the state to its residents." States Renée Hoyos, TCWN Executive Director. "Expedited enforcement must be used consistently and efficiently by TDEC to ensure that polluters are held accountable to our clean water laws."

In a memo to TDEC field and technical staff it states "We (TDEC) anticipate that this expedited order will be used as a first action in situations where there has not been significant harm to waters, and the division does not desire detailed corrective action."

Paul Davis, TDEC Division of Water Pollution Control Director, made it very clear the goal of the expedited enforcement process is to make TDEC's construction stormwater program more effective by decreasing the response time to issue penalties and fines. TDEC believes an indicator of success would be fewer water pollution violations from construction sites.

"The Tennessee Clean Water Network hopes developers use the warning as an opportunity to implement erosion control systems as they agree to in their permits to protect our waters and our communities from flooding." Adds Jennifer Gerbasi, TCWN Director of Programs and Legislative Affairs.

The Expedited Director's Order is a two-page document that field officers in the eight (8) regional offices can carry to sites and use as checklists for water pollution permits and water pollution permit violations. Within **days**, the developer, contractor or builder receives a fine with a cover letter from the central TDEC office in Nashville.

This is a stark contrast to the previous enforcement measures that took months, even years to issues fines, penalties and corrective actions.

Plus, when fines and penalties were previously assessed the developer usually stalled enforcement action with appeals in front of the Water Quality Control Board.

While the Expedited Director's Orders can also be appealed, most of the violations are black and white and appeals could be considered frivolous. The WQCB could increase the fine to cover staff and board expenses or an arbitrary amount if it decided the appeal was frivolous and intended only to waste time.

"The expedited enforcement program allows field officers to give polluters a taste of the fines the legislature has approved to deter polluters from ignoring their responsibilities under the law and destroying our streams." States, Gerbasi.

The Expedited Director's Order (EDO) lists \$11,500 in fines and has Paul Davis's signature (the Director of Water Pollution Control) on the form. Davis pre-approved these orders, and empowered field officers to issue them without further review. On the EDO, failure to retain sediment on site is a \$1,000 fine. The largest fine available through the EDO is \$9,500.

"TCWN found since May 1, TDEC used the Expedited Director's Order 2-3 times per week, and that number is rising as field officers get comfortable with the process." Gerbasi adds, "Developers should find erosion control less expensive to use than to put it off and destroy streams in hopes of avoiding detection."

Field officers can still award Notices of Violation immediately, and can pursue enforcement actions that include heavy fines (an upwards of \$10,000 per day, per violation) and corrective actions if violations continue.

"The Tennessee Clean Water Network is looking forward to more public accountability in TDEC's decision making that affect the waters Tennesseans live with and love." Concluded Hoyos.

In Tennessee, sediment from construction and other land disturbances is the leading water pollutant. Sediment in our waters increases flooding, transports chemicals and degrades aquatic habitat.

To view a detailed report on the Expedited Enforcement Program, including a list of fines and penalties, please visit <http://www.tcwn.org/press.htm>

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