

May 24, 2011

Commissioner Robert Martineau
Tennessee Department of Environment and Conservation
L & C Tower
401 Church Street
Nashville, TN 37243

Re: Construction Stormwater Violations at Holrob/Ratliff Office Building, TNR131475¹
(Knox County)

Dear Commissioner Martineau:

Pursuant to Tenn. Code Ann. § 69-3-118(a), I am writing to inform you of ongoing violations of the Tennessee Water Quality Control Act at the Holrob/Ratliff Office Building construction site (hereinafter “Holrob”) at 1720 Schaeffer Road in Knox County, TNR131475. I appreciate the opportunity to submit this information for your consideration, and look forward to TDEC’s prompt resolution of this matter.

Holrob is an 18.85-acre construction site. Construction at the site began on or before December 1, 2005. Since then, over a period of more than five years, the developers have flagrantly violated the Tennessee General NPDES Permit for Discharges Associated with Construction Activities, No. TNR100000 (hereinafter “CGP”) and other regulations intended to protect our water quality. Violations of the CGP are violations of the Tennessee Water Quality Control Act. Tenn. Code Ann. § 69-3-108(b).

TDEC’s file on this property amply documents this long history of noncompliance. Sequoyah Limited, LLC the original developer, began construction at Holrob without adequate erosion prevention and sediment controls, caused a condition of pollution, and altered a stream without first obtaining an Aquatic Resource Alteration Permit. TDEC issued a Notice of Violation (“NOV”) for these violations on December 13, 2005

From 2005 through November 2008, Sequoyah Limited, LLC continued not to stabilize the site. TDEC issued another NOV in August 2007. An inspection in November 2007 found that the majority of the site remained unstable and with inadequate erosion prevention and sediment controls. Finally, TDEC entered an Agreed Order (WPC07-0264) on October 22, 2008 due to the absence of adequate erosion prevention and sediment controls, continued discharge of sediment, causing a condition of pollution, and failure to stabilize the construction site. The Order assessed a \$5,000 non-contingent penalty and required Sequoyah Limited, LLC to install appropriate EPSCs and stabilize the site.

¹ TDEC first assigned tracking number TNR1310475 to this site, and later dropped the zero.

Within a month of entry of this Order, Sequoyah Limited, LLC submitted a Notice of Termination. The current owner/developer, Holrob Thomas, LLC submitted a Notice of Intent listing Harrison Construction Company as the new contractor shortly thereafter. The original name of the project and other parts of the file indicate that Holrob has been involved in the development from the outset.

After permit coverage was transferred, TDEC appears to have stopped monitoring the site routinely. Unfortunately, based on TCWN's observations over time, the site has never been stabilized. This photograph documents the current condition of the site, showing the absence of EPSCs and the continued failure to stabilize:

The TNCGP requires permittees to temporarily stabilize non-vegetated areas within 15 days of the cessation of construction activity. Holrob Thomas, LLC has chronically failed to do this. This is the most serious ongoing violations because there has been little or no construction since the land was first cleared. Unfortunately, because the entire site was cleared for the purpose of construction, the lack of temporary stabilization at the site, combined with poorly designed and maintained EPSCs, has caused significant amounts of sediment-laden stormwater to be discharged from the site during routine rain events.

Given Holrob Thomas, LLC's failure to stabilize inactive areas of the construction site and chronic history of noncompliance, we request that immediate and concerted action be taken to remedy the situation and prevent future pollution of Plumb Creek.

TDEC's response should include the imposition of significant penalties. TDEC has already attempted to work with the developer to fix the problems at the site through multiple NOV's and issuance of a modest penalty. Clearly, that approach to enforcement has not brought the site into compliance.

TCWN appreciates your consideration of this Section 118(a) complaint, and we look forward to your response.

Sincerely,



Stephanie D. Matheny
Staff Attorney

cc: Paul Schmierbach, TDEC
Chris Granju, Knox County Department of Engineering & Public Works
Robert S. Talbott, Holrob Thomas, LLC