

5. At all times relevant to this action, Knox County Government owned and was the State of Tennessee permit holder of a Treatment Works, as defined in 40 CFR § 503.9(aa), known as the Knox County Greenwaste Facility (“Facility”), a composting facility located at 8707 Joe Daniels Road, Knoxville, Tennessee.

6. At all times relevant to this action, Natural Resources Recovery of Tennessee, LLC operated the Facility, however Knox County maintained and managed the fire suppression and storm water management systems and associated detention ponds.

7. Both Respondents are a “person who prepares sewage sludge” as defined in 40 CFR §503.9(r), as either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge, and is thus subject to the requirements of the CWA and 40 CFR Part 503.

8. Section 405(e) of the CWA, 33 U.S.C. § 1345(e), makes it unlawful for any person to dispose of sewage sludge from a treatment works treating domestic sewage except in accordance with regulations promulgated pursuant to Section 405(d) of the CWA, 33 U.S.C. § 1345(d), which are found at 40 CFR Part 503.

9. 40 CFR Part 503 establishes standards for the use and disposal of sewage sludge, and consists of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works.

10. On July 13, 2007, EPA conducted a compliance evaluation inspection of the Facility. On June 30, 2008, EPA issued a Section 308 information request letter to Knox County Government, to obtain additional information from Knox County Government, relevant to the disposal of materials derived from sewage sludge, or composted sewage sludge, at the Facility. Based on EPA’s inspection and Knox County’s 308 response, EPA determined that the Facility had violated the CWA.

11. 40 CFR § 503.16(a)(1) requires that “The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3 and Table 4 of Sec. 503.13;... shall be the frequency in Table 1 of Sec. 503.16”. Based on the amount of sewage sludge received in calendar year 2007 at the Facility, Respondents were required to monitor the Lead (Pb) concentration at a minimum of once per quarter (four times per year).

12. Based on information provided to EPA by Respondents, it was determined that while Respondent Natural Resources Recovery of Tennessee, LLC requested testing for Pb concentration as a part of its request submitted to its testing laboratory in the fourth quarter of calendar year 2007, such testing was inadvertently omitted by the laboratory and therefore the Respondents failed to monitor the composted sewage sludge for the Pb concentration in the fourth quarter of calendar year 2007 in accordance with 40 CFR §503.16(a)(1).

13. 40 CFR § 503.15(a) requires that "...the Class A pathogen requirements in Sec. 503.32(a)... shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site...". The Respondents submitted operational data to support the Class A pathogen reduction requirement by choosing Alternative #5 [§ 503.32(a)(7)]. Under this alternative, the testing of the sewage sludge must either meet a density of fecal coliform in the sewage sludge of less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge of less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed.

14. Based on information provided to EPA by Respondents, it appeared that Respondents failed the operational standards for the Class A pathogen reduction in accordance with 40 CFR § 503.15(a) by exceeding the pathogen density requirements in the first quarter of calendar year 2008.

III. Stipulations and Findings

15. Complainant and Respondents have conferred for the purpose of settlement pursuant to 40 CFR § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this Consent Agreement and Final Order ("CA/FO") will simultaneously commence and conclude this matter.

16. For the purposes of this CA/FO, Respondents admit the jurisdictional allegations set out above and neither admit nor deny the factual allegations and legal conclusions set out above except as to the jurisdictional allegations.

17. Respondents hereby waive its right to contest the allegations set out above and its right to appeal the Final Order accompanying this Consent Agreement.

18. Respondents consent to the assessment of and agree to pay the civil penalty as set forth in this CA/FO and consent to the other conditions set forth in this CA/FO.

19. By signing this CA/FO, Respondents certify that the information they have supplied concerning this matter was, at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondents realize that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information.

20. EPA reserves the right to assess and collect any and all civil penalties for any violation described herein to the extent that any information or certification provided by Respondents was materially false or inaccurate at the time such information or certification was provided to EPA.

21. Complainant and Respondents agree to settle this matter by their execution of this CA/FO. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of the CWA.

IV. Payment

22. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), and 40 CFR Part 19, and considering the nature of the alleged violations and other relevant factors, EPA has determined that Twelve Thousand Dollars (\$12,000) is an appropriate civil penalty to settle this action.

23. Respondents shall submit payment of the penalty specified in the preceding paragraph within thirty (30) days of the effective date of this CA/FO via a cashier's or certified check, payable to the order of "Treasurer, United States of America." The check shall reference on its face the name of Respondent and the Docket Number of this CA/FO. Such payment shall be tendered to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

24. At the time of payment, Respondents shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CA/FO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

Ms. Mary Mattox
U.S. Environmental Protection Agency, Region 4
Water Protection Division
Clean Water Enforcement Branch
Municipal & Industrial Enforcement Section
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

25. The penalty amount specified in Paragraph 22 above shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

26. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by the Respondents to pay the penalty assessed by the CA/FO in full by its due date may subject the Respondents to a civil action to collect the assessed penalty plus interest (at currently prevailing rates from the effective date of this CA/FO), attorneys fees, costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty per cent (20%) of the aggregate amount of such penalty and nonpayment penalty which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount and appropriateness of the penalty and of this CA/FO shall not be subject to review.

V. General Provisions

27. This CA/FO shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Other than as expressed herein, compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

28. Nothing in this CA/FO shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Respondents' violation of this CA/FO or of the statutes and regulations upon which this agreement is based, or for Respondents' violation of any federal or state statute, regulation or permit.

29. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and Respondents of all claims for civil penalties pursuant to the CWA with respect to only those violations alleged in this CA/FO. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondents, or other liability resulting from violations that were not alleged in this CA/FO. Other than as expressed herein, Complainant does not waive any right to bring an enforcement action against Respondents for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

30. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to execute and legally bind that party to it.

31. This CA/FO applies to and is binding upon Respondents and its officers, directors, employees, agents, successors and assigns.

32. Any change in the legal status of Respondents including, but not limited to, any transfer of assets of real or personal property, shall not alter Respondents' responsibilities under this CA/FO.

33. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CA/FO.

34. In accordance with 40 CFR § 22.5, the individuals below are authorized to receive service relating to this proceeding.

For Complainant:

Ms. Wilda Cobb
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9530

For Respondents:

Honorable Tim Burchett, Mayor
Knox County Government
Office of the County Mayor
Suite 615
City County Building
400 Main Street
Knoxville, Tennessee 37902

and

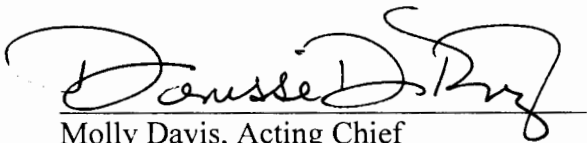
Mr. Sid Brian, Member
Natural Resources Recovery of Tennessee, LLC
8707 Joe Daniels Road
Knoxville, Tennessee 37931

VI. Effective Date

37. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:



Molly Davis, Acting Chief
Clean Water Enforcement Branch
Water Protection Division
U.S. EPA Region 4

Date: 7/14/11

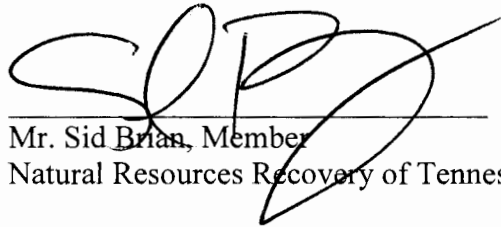
For RESPONDENT, KNOX COUNTY GOVERNMENT:

Signed by Knox County on attached
duplicate signature page

Honorable Tim Burchett, Mayor
Knox County Government

Date: _____

For RESPONDENT, NATURAL RESOURCES RECOVERY OF TENNESSEE, LLC:



Mr. Sid Brian, Member
Natural Resources Recovery of Tennessee, LLC

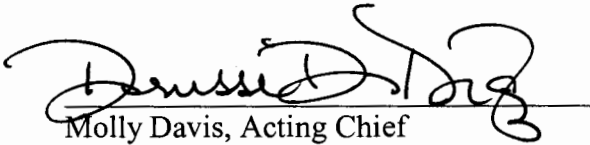
Date: April 26, 2011

VI. Effective Date

37. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:



Molly Davis, Acting Chief
Clean Water Enforcement Branch
Water Protection Division
U.S. EPA Region 4

Date: 7/14/11

For RESPONDENT, KNOX COUNTY GOVERNMENT:



Honorable Tim Burchett, Mayor
Knox County Government

Date: 5/16/11

For RESPONDENT, NATURAL RESOURCES RECOVERY OF TENNESSEE, LLC:

Signed by Natural Resources on attached
Mr. Sid Brian, Member
Natural Resources Recovery of Tennessee, LLC

Date: duplicate signature page

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	
)	CONSENT AGREEMENT AND
Knox County Government)	FINAL ORDER
Knoxville, Tennessee,)	
)	
and)	
)	
Natural Resources Recovery of Tennessee, LLC)	
Knoxville, Tennessee)	Docket No. CWA-04-2011-4503(b)
)	
_____ Respondents)	

FINAL ORDER

In accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, including Subpart I, 40 CFR Part 22, and authorities delegated to me, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Pursuant to Section 309(g)(2)(A) of the CWA, 33 U.S.C. § 1319(g)(2)(A), Respondents are hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: August 2, 2011



Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of Knox County, Tennessee and Natural Resources Recovery of Tennessee, LLC Docket No. **CWA-04-2011-4503(b)** (filed with the Regional Hearing Clerk on Aug. 04, 2011) was served on Aug. 04, 2011, in the manner specified to each of the persons listed below.

By hand-delivery:

Ms. Wilda Cobb
Assistant Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

**By certified mail,
return receipt requested:**

Honorable Tim Burchett, Mayor
Knox County Government
Office of the County Mayor
Suite 615
City County Building
400 Main Street
Knoxville, Tennessee 37902

Mr. Sid Brian, President
Natural Resources Recovery of Tennessee, LLC
c/o Mr. David Draper, Registered Agent
Lewis, King, Krieg, & Waldrop, P.C.
Once Centre Square, Fifth Floor
620 Market Street
Post Office Box 2425
Knoxville, Tennessee 37901

Paul E. Davis, Director
Division of Water Pollution Control
Tennessee Department of Environment and Conservation
6th Floor, L & C Annex
401 Church Street
Nashville, Tennessee 37243



Belinda Johnson, Acting, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM
=====

TO BE COMPLETE BY ORIGINATING OFFICE:

(attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Mary Mattox 5/31/11
[Name] [Date]
in the WPD/CWEB/Municipal and Industrial Section at 404-562-9733
[Office] [Telephone Number]

- Non-SF Judicial Order/Consent Decree.
USAO COLLECTS.
- Administrative Order/Consent Agreement.
FMS COLLECTS PAYMENT.
- SF Judicial Order/Consent Decree.
FMS COLLECTS.
- Other Receivables
- This is an original debt.
- This is a modification.

PAYEE: Knox County Government and Natural Resources Recovery of Tennessee, LLC
[Name of person and/or Company/Municipality making the Payment]

The Total Dollar Amount of Receivable: \$ 12,000
[If in installments, attach schedule of amounts and respective due dates]

The Case Docket Number: CWA-04-2011-4503 (b)

The Site-Specific Superfund (SF) Account Number: _____

The Designated Regional/Headquarters Program Office: Region 4 Water Protection Division

=====

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT SECTION:

The IFMS Accounts Receivable Control Number is: _____
If you have any questions call: _____ in the Financial Management Section,
Telephone Number: _____

=====

DISTRIBUTION:

A. JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the FINAL JUDICIAL ORDER should be mailed to:

- | | | |
|--|-----------------------------|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice/RH 1647
P.O. BOX 7611, Benjamin Franklin Station
Washington, DC 20044 | 2. Originating Office (ORC) | 3. Designated Program Office |
|--|-----------------------------|------------------------------|

B. ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page the ADMINISTRATIVE ORDER should be sent to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 2. Designated Program Office |
| 3. Regional Hearing Clerk | 4. Regional Counsel |

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM
PROGRAM SPECIFIC INFORMATION

Case Docket Control Number: CWA-04-2011-4503(b)

Total Amount Due: \$ 12,000

Full payment due within 30 days of the effective date of the CAFO.

Installment payments to be paid:

Amount Due:	Date Due:
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____