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NFIB | **Small Business
Legal Center**
The Voice of Small Business®

*Protecting the Rights of
America's Small Business Owners*

TN. DEPT. OF ENV.

February 27, 2017

Tennessee Board of Water Quality, Oil, and Gas
312 Rosa L. Parks Ave.
Nashville, TN 37243
ATTN: Docket No. 04.30-140893J

MAR 07 2017
DIVISION OF WATER RESOURCES

RE: NPDES Permit No. TNS000000

To Whom It May Concern:

The National Federation of Independent Business (NFIB) and the NFIB Small Business Legal Center hereby submit this letter concerning the appeal for relief from National Pollutant Discharge Elimination System (NPDES) General Permit No. TNS000000 ("Permit") brought by the Homebuilders Association of Tennessee ("HBAT"). NFIB urges the Tennessee Board of Water Quality, Oil, and Gas ("TBWQOG" or "the Board") to vacate the permit as issued, and to remand for further proceedings consistent with state and federal law, and public policy.

The National Federation of Independent Business (NFIB) is the nation's leading small business association, representing its members in Washington, D.C. and all 50 state capitals. Founded in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the right of its members to own, operate and grow their businesses. The NFIB Small Business Legal Center is a nonprofit 501(c)(3), public-interest law firm established to be the voice for small business in the nation's courts and the legal resource for small businesses nationwide.

Like the Board, NFIB and its members appreciate the need to protect the natural environment from potential pollutant discharges during storm events and degradation from poor waste water management planning. However, we feel that the Board has put forth this general permit without considering the impact that some of its requirements will have on small businesses.

NPDES permits are a mechanism by which controls may be instituted to reduce the discharge of pollutants to the maximum extent practicable ("MEP"). The Permit, as issued, presents an overly broad attempt to regulate discharge during storm events, and seeks to do so in a way that is particularly onerous to small businesses. These businesses seek to build housing in the communities affected by the NPDES permit. Notably, this Permit seeks to impose requirements such as 100 percent retention or infiltration of storm water flow, velocity, or quantity as MEP. This high burden requires a significant investment of resources in order to comply, which may not always be readily passed along to end purchasers of the residential homes HBAT members produce. This inability to appropriately price residential homes to compensate for regulatory burdens imposed by the Permit distorts the market for new housing in the communities affected by the NPDES Permit and harms the ability of HBAT members to operate.

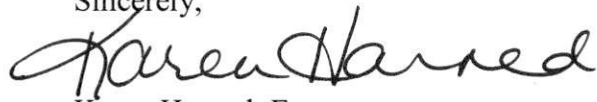
National Federation of Independent Business

1201 F Street NW, Suite 200 • Washington, DC 20004 • 202-554-9000

These costs not only harm homebuilders, but also the communities and residents of the communities impacted by the Permit. Because these costs cannot readily be passed on to consumers, they act as a disincentive for HBAT members and other residential developers – which will cause a reduction in home building activity in the affected communities. Reduced homebuilder activity results in fewer permits pulled from local building departments, fewer new residents, reduced tax revenues, and lower economic activity. The end result harms local governments, residents, and small businesses.

In light of the foregoing impacts that the NPDES Permit will render upon communities, residents, and small businesses covered by the Permit, the NFIB Small Business Legal Center urges the Board to vacate the Permit so that it may be redrafted with appropriate care toward these stakeholders.

Sincerely,

A handwritten signature in black ink that reads "Karen Harned". The signature is fluid and cursive, with the first name "Karen" and last name "Harned" clearly distinguishable.

Karen Harned, Esq.
Executive Director