establishing successful RMEs

FACT SHEET

6 operating successfully as a private RME or service provider

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READ THIS FACT SHEET IF...

you are a private organization, or are looking to form a private organization to take responsibility for managing decentralized wastewater systems.

SOUTHEAST ENVIRONMENTAL ENGINEERING, LLC

Privately owned organizations are increasing in number in response to this business opportunity, particularly for managing decentralized systems in new developments. They are usually for-profit companies or corporations with fees. If they hold the operating permit for the decentralized wastewater systems, they are called Responsible Management Entities, or RMEs (*Fact Sheet #1*). If they also own the systems, their territory is regulated, i.e., their geographic service area is created and regulated by a public utilities commission or public services commission at the state level.

Besides RMEs, many private service providers, who provide contract design, installation, operation, and maintenance services to property owners, also operate successfully in the decentralized wastewater sector.

MAKING YOUR SERVICE VALUED.

Assess and build on drivers of the need for management.
To take advantage of the business opportunity inherent in managing decentralized systems, private organizations often need to get actively involved in creating demand and building momentum. A good business opportunity is reliant on an effective regulatory framework. (See *Fact Sheet #2* for more about responding to the local context.)

> ***"Get involved in public planning and community planning, and make your face, voice, and professionalism known to stakeholders. Have them trust you. Free time spent there will pay off later."***
>
> ***—Sterling Lee Few***

You could engage customers, county or state regulators, local government officials, and other stakeholders to create a target (e.g., a 50% reduction in major malfunctions over 10 years) that your company can help achieve. Other possibilities include joining or creating an organization that advocates for better management and/or works towards creating public or government mandates.

Creating and maintaining a strong public profile will help you.
Take part in public planning or municipal visioning processes. Listening to concerns is an important step in building rapport and trust with local officials and potential customers.

Equally, marketing campaigns can support a positive image for your business. Keep in mind, however, that advertisements must reflect reality. The best way to appear credible is to be credible *(Fact Sheet #10)*.

Creating a certified franchise may give you surety of customers.
Many privately owned RMEs work in cooperation with developers and build new decentralized systems that have a certified franchise, which means their customers will automatically be bound to subscribe to their service. Collaborating with building projects can result in large customer numbers with reduced management and operating costs.

In other instances, there may be a need to take action to improve how your service is viewed and valued. This can be done by re-branding, developing and implementing new publicity programs, by employing more professional staff, and even by such simple practices as creating or updating staff uniforms.

Offering sustainable solutions creates value.
Value for customers can tie closely to green building or sustainable developments—especially when decentralized wastewater treatment is linked to resource recovery and reuse, such as water recycling, energy production, or heat recovery. The US Green Building Council (www.usgbc.org) has developed rating systems to guide green buildings and neighborhoods.

LOCAL CONDITIONS SHAPE WHAT IS POSSIBLE.

Regulations present both opportunities and barriers for private organizations.
Privately owned, publicly regulated utilities often have less enforcement power than public utilities *(Fact Sheet #4)*. A common option for utilities providing water supply is to shut down services for nonpayment of bills. Some private organizations are using contractual service agreements with customers to gain this same power.

This option has some practical difficulties. Water supply systems have a valve at the inlet to each property, but wastewater systems are seldom designed with an equivalent measure. In any case, shutting down wastewater services can create public health and environmental risks and is disallowed in some states (such as Iowa). As a result, privately owned, publicly operated RMEs may have to rely on more conventional debt-collection measures.

Alternatively, this obstacle can be handled through a contract with the customer, in the form of a user agreement that is part of the closing process for buying a home in a development with an RME-managed system. Under such

Join or create an organization that advocates for improved management of decentralized systems.

Onsite Solutions, Inc., in Virginia, provides O&M services to about 1,200 individual advanced treatment systems. Before 2007, there had been no consistent regulatory requirement for service contracts, though the equipment manufacturer required an initial two-year contract, as did the Virginia Department of Health under special conditions for initial approval.

The owner of Onsite Solutions, K.R. "Trapper" Davis, has been active in the Virginia Onsite Wastewater Recycling Association, which helped get legislation passed in 2007 to require statewide tracking and minimum maintenance for onsite systems. This development will expand the market for Onsite Solutions, while raising the bar for management efforts across the state.

a contract, the RME gains the authority to install its own water shut-off valve on the customer's side of the water meter.

The rates that privately owned utilities can charge their users, as well as rate increases, usually must be approved by a state-level Public Service Commission or Public Utilities Commission. Depending on such a commission's level of experience with decentralized systems and their stance, these negotiations may require significant effort and result in a large financial burden on the utility. However, as more and more RMEs come into existence, there are a growing number of precedents across the country that can be used to make appropriate arguments to regulators.

Environmental regulations, public health rules, and local or county ordinances also apply to privately owned utilities and service providers engaged with decentralized systems. The more effective the regulation is, the stronger your potential business opportunity is. (See *Fact Sheet #3* on Regulation.)

Check the history in your area.
Prior instances of broken trust can significantly influence what is possible for privately owned RMEs. The model of privately owned publicly regulated utility ownership and operation of development-scale wastewater systems that is proving successful in the southeastern US is expressly prohibited in the state of Washington, because regulators had negative experiences with a small number of unscrupulous developers. It is essential that you understand these sorts of relationships and history and work closely with key stakeholders.

Conversely, if you are moving into an area with no or limited knowledge of decentralized wastewater technologies and management, it is important to do it right the first time, to ensure that your own and others' future projects and customers are not put off by bad press.

Identify or help create public or governmental mandates.

In Alabama, a treatment system manufacturer (Infiltrator Systems, Inc.) sponsored legislation to increase scrutiny of privately owned RMEs. Interestingly, the movement towards utility-style management was started by industry, not by regulators.

Under the new rule, any privately owned system with more than two dwellings or establishments and soil-based dispersal is required to have a responsible management entity (RME).

The Alabama Department of Public Health oversees the financial viability of the RMEs by requiring the state's Public Service Commission to review financials for the RMEs and recommend rates once every two years.

PLANNING YOUR GOALS AS AN ORGANIZATION.

Clear goals will give your organization direction and cohesion. Such goals need to be realistic. They are determined both by where you are starting from and where you want to go as a company. Determine goals early in your organizational planning processes and use them to guide your later decisions (*Fact Sheet #8*). Revisit and revise them every couple of years.

Some key questions to consider are:

Do you want to expand an existing company to provide a higher level of service?

- Are technical solutions for onsite or cluster systems in your area increasingly complex? Are there increased regulatory requirements for O&M or monitoring of these systems?
- Are you targeting a niche market? Is the market still there? Has it changed?
- Do you see an existing condition in your area (such as concentrations of aging or malfunctioning systems, or increasing development pressure) as a business opportunity? For example, follow the need for improvement or repair of existing onsite systems, particularly where expensive centralized sewer solutions appear to be the only possible alternative for an area. In Pennsylvania, the 537 planning program allows for consideration of alternatives such as limited onsite management, including RMEs and/or service providers, where onsite repairs and ongoing management can be proven to meet the necessary regulatory and environmental standards.

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Multiple benefits of decentralized systems are increasingly recognized.

Around the world, decentralized wastewater systems are now being integrated into green buildings.

Applied Water Management Group designed, and now operates, several recycling facilities that treat 25,000 to 35,000 gallons of wastewater and stormwater per day in luxury high-rise green buildings in downtown Manhattan, including the Solaire, Tribeca Green, Millenium Tower, The Visionaire, River House, and The Helena.

The treated water is reused for flushing toilets, filling cooling towers, and irrigating rooftop gardens and parks.

Decentralized recycling systems provide benefits to local water authorities by reducing the draw on existing water supply systems and the discharge to sanitary wastewater systems. With clever design, they also use less energy than large scale centralized systems. *(See www.amwater.com/working-with-us/case-studies/index.html for more information.)*

COMMON CHALLENGES FOR PRIVATE UTILITIES AND HOW THEY HAVE BEEN OVERCOME.

Condition of the existing decentralized wastewater infrastructure is largely unknown.
Onsite systems already in the ground, with unclear histories and uncertain performance, present major uncertainties that can undermine business success. Because of this, few privately owned RMEs have attempted to take on existing systems. The more common response for existing decentralized wastewater infrastructure is O&M contracting. Even if you are a contracted service provider, it is critical to know what you are taking on.

The preferred situation is to take over existing infrastructure only after upgrades to current regulatory standards are completed. This can work in certain situations, particularly where economic drivers are forcing the system owner to upgrade.

In other instances, service providers work with regulators to have them require improvements be completed by the property owner.

In still other situations, private foundations provide loans for homeowners to invest in upgrading and maintaining their systems (e.g., SEC in *Fact Sheet #2*).

Alternatively, work with the regulators and focus first on a permit program, like the one in Segwick County, Kansas (Wichita area), which has created a market for O&M contract service providers.

Startup capital and operating needs outpace available revenues.
The most common solution is to broaden your range of services. Private companies have grown into RMEs from the role of engineer, contractor, or maintenance provider.

Building a critical mass of customers takes time. Two well-known private utilities, Adenus Utilities Group and Applied Water Management Group, started out as engineers and designers of development-scale systems and grew into utilities providing a complete range of RME services. For principals in both these organizations, keeping their "day jobs" while building a critical mass of customers was key to their long-term success.

Another strategy for an RME dealing with new developments is to ensure a return on their investment, regardless of sales—for example, by charging the owner of each undeveloped lot a retainer of $10/month beginning as soon as the system is installed. Then, as properties are developed, homeowners pay the standard connection and processing fee. A related strategy is to put a percentage of the home sales into a sinking fund up front.

Look at other sectors for innovative means of raising capital, sinking funds, or providing services.

Insufficient regulatory interest or oversight.
The state Public Utilities Commission may not be familiar with or receptive to the concept of a privately owned utility to provide decentralized wastewater management services. Regulation to ensure financial viability of privately owned RMEs can deal with this issue. In Tennessee, this happened through bonding to the public service commission; in Alabama and Georgia, through a third-party trustee; and in Massachusetts, through Title 5 legislation, which requires performance bonds and executed agreements with counties as well as a third-party trustee.

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Hard work may be needed if there's been no precedent of RMEs. In Tennessee, Adenus Utilities Group took the "school of hard knocks" approach, learning from their mistakes as they went. Although this was an expensive and time-consuming process, it eventually resulted in a successful rate case—and because the utility has service areas designated by the PUC, they have no competition within the developments they serve. Additionally, by being the first such entity and through quality performance, they were able to gain the lion's share of the decentralized utility market before others became aware of opportunities.

This fact sheet was prepared by the Institute for Sustainable Futures at the University of Technology Sydney in Australia and Stone Environmental, Inc., in Vermont.