

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

APR 24 2012

In the matter of the petition of:

APPALACHIAN WASTE CONTROL, INC. )  
)  
PETITIONER )  
)  
vs. )  
)  
THELMA WASTE CONTROL, INC. )  
)  
RESPONDENT )

PUBLIC SERVICE  
COMMISSION

CASE NO. 2012-00035

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**PETITIONER'S RESPONSE TO STAFF REQUEST**

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The Petitioner, Appalachian Waste Control, Inc., by John B. Baughman, the Temporary Receiver appointed by the Franklin Circuit Court in Civil Action No. 05-CI-1007 responds to the March 16, 2012 Staff Request as follows:

**Request No. 1:** Provide all correspondence between Appalachian Waste and Thelma Waste Control, Inc. ("Thelma Waste") regarding Appalachian Waste's request for service.

**Answer:** See Exhibit 1.

**Request No. 2:** Provide all correspondence between Appalachian Waste and the Kentucky Division of Water regarding the availability of funding to extend service from Thelma Waste's facilities to the customers whom Appalachian Waste presently serves.

**Answer:** See Exhibit 2.

**Request No. 3:** Identify the officials of the Kentucky Division of Water or Kentucky Energy and Environment Cabinet who have represented that funds are available to finance the proposed extension.

**Answer:** John West and Shafiq Amawi.

**Request No. 4:** Identify the route that the proposed extension would follow.

**Answer:** A lift station would have to be built at the existing Neil Price Treatment Plant. The line would go from the lift station to KY 1107 either through private property or along local roads, then to the Thelma Treatment Plant.

**Request No. 5:** State the estimated cost of any proposed extension.

**Answer:** A pump station, with capacity to pump 20 gpm, would cost approximately \$10,000.00. There would be approximately one mile of 2" force main, costing about \$5.00 per foot, or \$26,400.00. There would be tie-ins at each end, at a cost of approximately \$2,500.00 each. These items together would cost \$41,400.00. There may be other field related items that may add to the cost. If this project is financed with public money, it must be bid competitively, and will be subject to the response of local contractors.

**Request No. 6:** Describe how the cost of the proposed extension will be financed.

**Answer:** Unknown, except \$50,000.00 referenced to in Answer No. 9.

**Request No. 7:** State whether Appalachian Waste's proposal requires Thelma Waste to expend any funds for or bear any costs of the proposed extension

**Answer:** No.

**Request No. 8:** State the length of the proposed extension of service and describe the facilities that must be constructed to effect the proposed extension.


**Answer:** Approximately one mile.

**Request No. 9:** Describe the financial resources available to Appalachian Waste to fund the proposed extension.

**Answer:** \$50,000.00 is held by Paintsville Utilities for this purpose; the Public Service Commission has indicated it may have some additional funds available.

**Request No. 10:** Describe the consequences on service to Appalachian Waste's customers if the request for extension of service is not granted.

**Answer:** If this plant is not taken off line, it will continue to operate out of compliance with its KPDES permit and pose additional risk to public health and the environment.

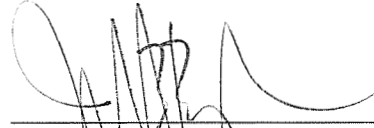


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JOHN B. BAUGHMAN  
Temporary Receiver  
APPALACHIAN WASTE CONTROL, INC.

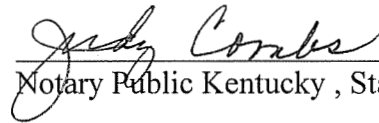
**VERIFICATION**

The undersigned, John B. Baughman, after first being duly sworn, states, and affirms the above information is correct and complete to the extent possible on the date hereto pursuant to reasonable inquiry and investigation.



\_\_\_\_\_  
JOHN B. BAUGHMAN  
Temporary Receiver  
APPALACHIAN WASTE CONTROL, INC.

Subscribed and sworn to before me by John B. Baughman, on this the 24<sup>th</sup> day of  
April, 2012.



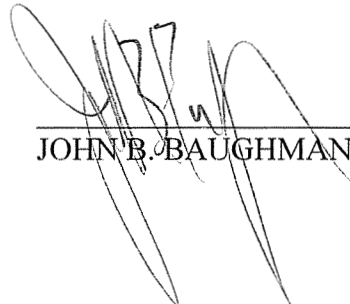
\_\_\_\_\_  
Notary Public Kentucky , State-at Large

My Commission Expires: August 11, 2015

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing Response was mailed on this  
the 24<sup>th</sup> day of April, 2012 to the following:

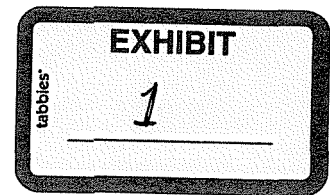
Hon. Michael S. Endicott  
Johnson County Attorney's Office  
225 Court St.  
P.O. Box 1287  
Paintsville, KY 41240



\_\_\_\_\_  
JOHN B. BAUGHMAN

JOHN B. BAUGHMAN  
ROBERT C. MOORE  
THOMAS J. HELLMANN

HAZELRIGG & COX, LLP  
ATTORNEYS AT LAW  
415 WEST MAIN STREET, SUITE 1  
P.O. Box 676  
FRANKFORT, KENTUCKY 40602-0676



DYKE L. HAZELRIGG (1881-1970)  
LOUIS COX (1907-1971)  
FAX: (502) 875-7158  
TELEPHONE: (502) 227-2271

February 27, 2012

Michael S. Endicott  
County Attorney  
Johnson County Attorney's Office  
225 Court St.  
P. O. Box 1287  
Paintsville, KY 41240

RE: Appalachian Waste Control, Inc. Vs. Thelma Waste Control Inc.,  
Case No. 2012-00035

Dear Mr. Endicott:

Thank you for your letter of February 22, 2012 and the 2011 Income and Expense statement. That information is very helpful.

I look forward to discussing the PSC application with you.

Very truly yours,



John B. Baughman

JBB/jlc

**MICHAEL S. ENDICOTT  
ATTORNEY AT LAW  
225 COURT STREET  
P.O. BOX 181  
PAINTSVILLE, KY 41240**

FEB 20 2012

(606) 789-8232

FAX (606) 789-0018

February 16, 2012

Hon. John B. Baughman  
Hazelrigg & Cox, LLP  
415 West Main Street, 1<sup>st</sup> Floor  
P.O. Box 676  
Frankfort, Ky 40602

**Re: Appalachian Waste Control, Inc. vs: Thelma Waste Control, Inc.  
Case No.: 2012-00035**

Dear Mr. Baughman:

I trust by now that you have received our response in reference to the above action.

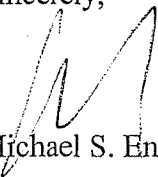
Again, I attended the Thelma Waste Control meeting and they advised that they do not wish to take over Appalachian Waste.

In fact, at the present time, they are currently running in the red and do not have funds available to make their monthly payments.

We simply do not have the ability or the finances to take over this particular project.

I have also spoken with our County Judge, Tucker Daniels, and he does not wish for Thelma Waste to take over this; nor, will he voluntarily agree to have access to the county roadways in order to do so.

Sincerely,



Michael S. Endicott

MSE/jac

cc: Judge Tucker Daniels  
County Judge

**JOHNSON COUNTY ATTORNEY'S OFFICE**  
**MICHAEL S. ENDICOTT**

COUNTY ATTORNEY  
225 COURT STREET, P. O. BOX 1287  
PAINTSVILLE, KY 41240

PHONE: 606-789-8286

FAX: 606-789-0018

February 28, 2011

John B. Baughman  
Appalachian Waste Control, Inc.  
P. O. Box 676  
Frankfort, KY 40602

RE: Appalachian Waste Control

Dear Mr. Baughman:

It was good to speak to you on February 24, 2011.

First, I want to provide you a copy of the tax letter that Mr. Thomasson received. Mr. Thomasson's envelope was postmarked February 21, 2011. The date on the letter was December 1. I assume there was some kind of typographical error.

As a follow up, we have personally investigated the various options that we discussed on the phone. For example, Paintsville Utilities taking over this project, which they refuse to do so.

Please advise if you proceed forward with an application with the Public Service Commission as you discussed. We will oppose same and we would request copies of all information be sent to us.



Page 2

Mr. John B. Baughman

We have to oppose same simply because:

1. Thelma Waste Control is a private corporation.
2. Thelma Waste is barely making ends meet, in fact are probably in the red at this point and do not have sufficient income to provide additional services nor is their machinery of sufficient quantity or capability to maintain additional input.

Finally, in order for you to get a line from the treatment plant in question to Thelma Waste, would require you to transport the line on county property. AT this point, the County Judge is not willing to agree to this arrangement either.

If you wish to discuss this in more detail or have somebody to talk to us about the possibility of a grant as you discussed on the phone to help with resources, perhaps we can reconsider our position.

Sincerely,



MICHAEL S. ENDICOTT

cc:

Mr. Roger T. Daniel  
P. O. Box 868  
Paintsville, KY 41240

Mr. Edward Thomasson  
P. O. Box 327  
Thelma, KY 41260

**APPALACHIAN WASTE CONTROL, INC.**  
*c/o John B. Baughman, Temporary Receiver*  
P.O. Box 676  
FRANKFORT, KENTUCKY 40602-0676

TELEPHONE: (502) 227-2271

FAX: (502) 875-7158

December 1, 2010

Edward Thomasson  
P.O. Box 327  
Thelma, Kentucky 41260

Re: Appalachian Waste Control

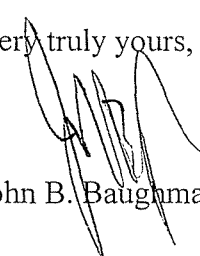
Dear Mr. Thomasson:

I am the Receiver appointed by the Franklin Circuit Court to operate the Appalachian Waste Control Waste Water Treatment Plants owned by Jeffrey Lance Bowling. My appointment as Receiver is a result of a lawsuit in the Franklin Circuit Court entitled Environmental and Public Protection Cabinet vs. Jeffrey Lance Bowling, et al. Franklin Circuit Court Civil Action No. 05-CI-1007.

I plan to ask the Kentucky Public Service Commission for authority to shut down the Neal Price Plant and further ask for an Order requiring Thelma Waste Control, Inc. to serve the customers of the Neal Price facility. The Natural Resources Cabinet will pay for the cost of connecting these customers to the Thelma Waste Control Plant and any additional cost required to upgrade your facility. It would be helpful if we could work together to achieve that end.

I would be grateful if you would call me at the above telephone number to discuss this process at your earliest convenience.

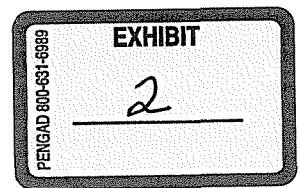
Very truly yours,



John B. Baughman

JBB/mw

cc: Josh Nacey, Natural Resources Cabinet



**HAZELRIGG & COX, LLP**

ATTORNEYS AT LAW

415 WEST MAIN STREET, SUITE 1

P.O. Box 676

FRANKFORT, KENTUCKY 40602-0676

JOHN B. BAUGHMAN  
ROBERT C. MOORE  
THOMAS J. HELLMANN

DYKE L. HAZELRIGG (1881-1970)  
LOUIS COX (1907-1971)

FAX: (502) 875-7158  
TELEPHONE: (502) 227-2271

March 19, 2012

**Via Electronic Mail: John.West@ky.gov and First Class Mail**

Hon. John S. West  
Environmental and Public Protection Cabinet  
Office of Legal Services  
200 Fair Oaks Lane, First Floor  
Frankfort, Kentucky 40601

RE: Environmental and Public Protection Cabinet v. Jeffrey Lance Bowling, et al.  
PSC Case No. 2012-00035

Dear John:

Enclosed is a PSC staff request. Please call me concerning Cabinet officials with information as to questions 2, 3, 5, 6 and 9.

Very truly yours,

John B. Baughman

JBB/jlc  
Enclosures

**APPALACHIAN WASTE CONTROL, INC.**

*c/o John B. Baughman, Temporary Receiver*

P.O. Box 676

FRANKFORT, KENTUCKY 40602-0676

TELEPHONE: (502) 227-2271

FAX: (502) 875-7158

February 14, 2012

Hon. John West  
Environmental and Public Protection Cabinet  
Office of Legal Services  
200 Fair Oaks Lane, First Floor  
Frankfort, KY 40601

FACSIMILE : 606-886-6148  
Hon. Joseph Lane  
Pillersdorf, Derossett & Lane  
124 West Court Street  
Prestonsburg, Kentucky 41653

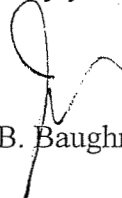
Re: Environmental and Public Protection Cabinet v. Jeffrey Lance Bowling, et al.  
Franklin Circuit Court, Civil Action No. 05-CI-1007

Gentlemen:

Enclosed is a copy of the Petition to Transfer Ownership, which I have filed with the PSC along with the Response filed by the owners of the Thelma facility.

I will keep you advised of any new developments.

Very truly yours,



John B. Baughman

JBB/jlc

Enclosure

cc: Sally Jump, Franklin Circuit Court Clerk

APPALACHIAN WASTE CONTROL, INC.

*c/o John B. Baughman, Temporary Receiver*

P.O. Box 676

FRANKFORT, KENTUCKY 40602-0676

TELEPHONE: (502) 227-2271

FAX: (502) 875-7158

December 1, 2010

606-189-2550

Judge Roger T. Daniel  
Suite 120, 230 Court Street  
Paintsville, Kentucky 41240

Re: Thelma Waste Control Plant #2  
Environmental and Public Protection Cabinet v. Jeffrey Lance Bowling, et al.  
Franklin Circuit Court, CA# 05-CI-1007

Dear Judge Daniel:

I am the successor Receiver appointed by the Franklin Circuit Court to manage the utilities in Johnson County owned by Jeffrey Lance Bowling. I believe you met with the previous receiver, Squire Williams, who has since been appointed by Governor Beshear to fill a vacancy in the Franklin Circuit Court. I assume Squire Williams and officials from the Natural Resources Cabinet previously discussed with you the plan to transfer operations of the Bowling waste water treatment plants to Paintsville Utilities. That transfer is almost complete.

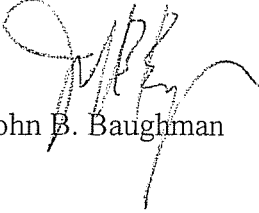
The purpose of this letter is to request your help with the last waste water treatment plant owned by Mr. Bowling, the Neil Price Waste Water Treatment Plant. It is located near a waste treatment plant known as Thelma Waste Water Control Plant # 2. I understand that facility is operated and/ or owned by Johnson County.

Officials from Paintsville Utilities and the Natural Resources Cabinet advise that Thelma #2 has sufficient capacity to take on the six customers of the Neil Price Waste Water Treatment Plant. With your consent we propose to construct a line to Thelma #2 and to pay for any needed addition to the plant to accommodate the connection of these new customers. The funds for the construction and improvement of your waste water treatment plant will be provided by the Natural Resources Cabinet and the Public Service Commission. I have been told that approximately \$50,000 dollars would be spent on your treatment which would improve it generally, as well as allow for the addition of the six new customers. At the conclusion of the construction Johnson County would receive the income from the six new customers.

I anticipate discussing this matter with you by telephone in the near future. However, you

are welcome to call me after receiving this letter or call the person at Paintsville Utilities who is helping with this project, Larry Herald. His telephone number is 789-2630.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Baughman', with a large, stylized flourish extending from the end.

John B. Baughman

JBB/mw

*W*



## ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

**Steven L. Beshear**  
Governor

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
300 FAIR OAKS LANE  
FRANKFORT, KENTUCKY 40601  
PHONE (502) 564-2150  
FAX (502) 564-4245  
www.dep.ky.gov

**Robert D. Vance**  
Secretary

**R. Bruce Scott**  
Commissioner

September 14, 2009

Mr. Larry Herald, Superintendent  
P.O. Box 530  
Paintsville, KY 41240

Re: Package WWTP Capacities in Johnson County

Dear Mr. Herald:

The Division of Water commends you on your valuable efforts to help protect public health and improve the water quality of streams in Johnson County by agreeing to facilitate the process of decommissioning the Neil Price wastewater package plant and routing its current and future flow to one of the two nearby Thelma wastewater plants. The Division has reviewed discharge monthly reports for both Thelma plans and determined that either facility can accept the flow from the Neil Price plant. If you have any questions about this letter, please feel free to call me at (502) 564-3410, ext. 4961.

Sincerely,

A handwritten signature in cursive script, reading "Shafiq S. Amawi".

Shafiq S. Amawi, Manager  
Water Infrastructure Branch  
Division of Water

Cc: John West, DEP  
Todd Osterloh, PSC

John B

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
233 Birch St  
Hazard, KY 417012115  
www.kentucky.gov

October 15, 2009

Squire N Williams III  
Special Master Commissioner  
PO BOX 676  
Frankfort KY, 40601

Burkeshire Development Subd  
KY 2039 Burkeshire Landing  
Staffordsville, Kentucky 41256

RE: Burkeshire Development Subd -- 2326  
Permit No.: KY0102687  
Johnson County, Kentucky  
Activity ID: CIN20090002

Dear Squire N Williams III

Attached for your information and records is a copy of the WW CEI-Minor Non-Mun performed at Burkeshire Development Subd on October 9, 2009.

If you have any questions or comments concerning this inspection, please contact the Hazard Regional Office at: (606) 435-6022.

Sincerely,

E-Signed by Lonnie Klopp  
VERIFY authenticity with ApproveIt

Lonnie Klopp  
Environmental Inspector  
Hazard Region  
Division of Water

LK  
Enclosure:



## Blankenship Law Office, PLLC

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328 E. Court Street  
Prestonsburg, KY 41653  
(606) 886-1343  
Fax: (606) 886-1349  
Email: dblankenship@bellsouth.net

February 22, 2010

FEB 26 2010

Hon. John Braughman  
Hazelrigg & Cox, LLP  
415 West Main Street  
P. O. Box 676  
Frankfort, KY 40602-0676

Re: Appalachian Waste Control, Inc.

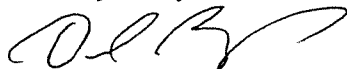
Dear John:

As you learned from the email you recently received from John West, I am the attorney for Paintsville Utilities Commission. We are currently obtaining the final few easements necessary to begin this project. One of the ones that are still needed is one from Appalachian Waste Control.

I have enclosed the easement that contains a map highlighting the area where Paintsville Utilities seeks the easement. Please review the same and should you have no objections to the easement, please sign the same and return it to me at your earliest convenience.

If you have any questions or concerns for me, please feel free to give me a shout.

Very Truly Yours,



A. David Blankenship