

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

**RECEIVED**

JAN 15 2008

**PUBLIC SERVICE  
COMMISSION**

In the Matter of:

JOINT APPLICATION OF DOWNSTREAM, INC.	)	
AND FOX RUN UTILITIES, LLC	)	Case No. 2008- <u>00024</u>
FOR APPROVAL OF THE TRANSFER OF	)	
WASTEWATER TREATMENT PLANT TO	)	
DOWNSTREAM, INC.	)	

**APPLICATION FOR APPROVAL OF TRANSFER**

Pursuant to KRS 278.020(4), Downstream, Inc., and Fox Run Utilities, LLC,

hereby submit to the Public Service Commission of Kentucky ("Commission") this application for the transfer of the Wastewater Treatment Plant and collection system serving the Fox Run Subdivision in Franklin County, Kentucky, to Fox Run Utilities, LLC in accordance with the Assets Purchase Agreement to be executed by the Joint Applicants, subject to the approval of this Application for Approval of Transfer. A copy of the Asset Purchase Agreement ("Agreement") is attached hereto as Exhibit A. In support of their application, Downstream, Inc., and Fox Run Utilities, LLC, state the following.

1. Downstream, Inc., the Seller under the Agreement, is a Kentucky Corporation in good standing, with its principal office at 207 Holmes Street (rear), P. O. Box 191, Frankfort, Kentucky, 40602. A copy of the Articles of Incorporation of Downstream, Inc., is attached hereto as Exhibit B. Downstream, Inc., is subject to Commission jurisdiction under KRS 278.010(3)(f). Rodney R. Ratliff is the President of Downstream, Inc., and has been duly authorized to execute this joint application on behalf of the corporation. A copy of the resolution of the Board of Directors of Downstream, Inc. authorizing the execution of the Agreement transferring the assets of the Fox Run Wastewater Treatment Plant and related

assets to Fox Run Utilities, LLC, and this Joint Application is attached hereto as Exhibit C.

2. Fox Run Utilities, LLC, is the purchaser under the Agreement, and its address is 1706 Bardstown Road, Louisville, Kentucky 40205. Fox Run Utilities, LLC, is a Kentucky Limited Liability Company in good standing. A copy of the Articles of Organization of Fox Run Utilities, LLC, is attached hereto as Exhibit D. Fox Run Utilities, LLC, is a private utility subject to Commission jurisdiction under KRS 278.010(3)(f). Lawrence W. Smither, a member of Fox Run Utilities, LLC, is duly authorized to execute this joint application on behalf of the Fox Run Utilities, LLC, a Kentucky limited liability company.

3. The sewer system owned by Downstream, Inc., serves approximately 34 single family residences and no multi-family residences in Fox Run Subdivision, Franklin County, Kentucky. There are no commercial connections to the subject wastewater treatment plant.

4. Under the Agreement, Downstream, Inc., will transfer and convey to Fox Run Utilities, LLC, all of the assets making up the wastewater treatment plant and the collection system currently serving the Fox Run Subdivision located in and around Franklin County, Kentucky. The assets purchased by Fox Run Utilities, LLC, are described more fully in the Agreement, but include the Fox Run Subdivision wastewater treatment plant, the wastewater collection system, force main, easements, cash and cash equivalents and the real property upon which the wastewater treatment plant is located.

Fox Run Utilities, LLC, will have the obligation to provide utility services in connection with the operation of the sewer business after the closing. The closing under the Agreement will occur within thirty (30) days after receipt of the approval of this Application for Transfer by the Public Service Commission.

5. The Fox Run Subdivision wastewater treatment plant is an aboveground package

sewage treatment plant. It was constructed in approximately 1979 and the construction application was submitted to the Division of Water on September 24, 1979, and currently serves 34 single family residences and no multi-family residences in Franklin County, Kentucky. The design treatment capacity of the Fox Run Subdivision wastewater treatment plant is 20,000 gallons per day. The plant is an extended aeration activated sludge plant with a tertiary rapid sand filter permitted by the Kentucky Environmental and Public Protection Cabinet (Exhibit E) and services a collection system composed of gravity sewer lines, force main, manholes and two remote pump stations. The treated effluent is discharged into an unnamed tributary to Benson Creek. The plant currently meets the requirements of its KPDES discharge permit issued by the Kentucky Division of Water.

6. Fox Run Utilities, LLC, has the requisite financial, technical and managerial ability to operate the subject wastewater treatment plant and collection system and to provide reasonable service to the wastewater customers of Fox Run Utilities, LLC. Fox Run Utilities, LLC, has the necessary technical ability to operate the subject wastewater treatment plant.

Mr. Cogan and Lawrence Smither, the members of Fox Run Utilities, LLC, both have substantial experience in the operation of wastewater treatment plants. Mr. Cogan has participated in the operation of a number of wastewater treatment plants located in the Commonwealth of Kentucky over the last twenty (20) years. Mr. Cogan has a Master's Degree in Environmental Engineering from the University of Louisville's Speed Scientific School. Mr. Smither, who is licensed by the Commonwealth of Kentucky as a wastewater treatment plant operator, has extensive experience in wastewater treatment plant operation and design, and has operated package wastewater treatment plants in Kentucky for over thirty (30) years. A copy of Mr. Smither's current Kentucky wastewater treatment operator's license is

attached as Exhibit F.

Fox Run Utilities, LLC, has the necessary managerial ability to operate the subject wastewater treatment plant, as Mr. Cogan and Mr. Smither own Airview Estates, LLC, the owner and operator of the Airview Estates WWTP, and Brocklyn Utilities, LLC, the owner and operator of the Brocklyn Subdivision WWTP. Mr. Cogan and Mr. Smither previously owned and operated

the Covered Bridge Utilities WWTP and the Glenview Utilities WWTP located in Jefferson County, Kentucky. The Covered Bridge Utilities wastewater treatment plant was sold to the Oldham County Sewer District in 2000. The Glenview Utilities WWTP was sold to the Louisville and Jefferson Metropolitan Sewer District. Mr. Cogan and Mr. Smither have assisted with the management of a number of wastewater treatment plants owned by Mr. Carroll F. Cogan, including the following wastewater treatment plants: Countryside, Willow Creek, Orchard Grass, Hunter's Hollow, Bullitt Hills, Brentwood and Farmdale. Furthermore, since July of 2005, Mr. Smither as a Member of Covered Bridge Utilities, LLC, has operated the Cedarbrook WWTP plant for R.A. Williams Construction Company, Inc.

7. In lieu of a third party beneficiary agreement, Fox Run Utilities, Inc., has obtained the issuance of an Irrevocable Standby Letter of Credit issued by Old National Bank, a copy of which Irrevocable Letter of Credit is attached as Exhibit G, and the original of same will be submitted to the Commission upon request.

8. The proposed transfer of the assets of the Fox Run Subdivision Wastewater Treatment Plant by Downstream, Inc., to Fox Run Utilities, LLC, will be accomplished in accordance with law, for a proper purpose and, consistent with the public interest: (a) On or before closing, Fox Run Utilities, LLC, will have all necessary permits for the operation of the Fox

Run Subdivision Wastewater Treatment System. However, the parties will request the Kentucky Division of Water to transfer the KPDES permit issued to Downstream, Inc., to Fox Run Utilities, LLC, upon the approval of the Application for Transfer. (b) The public interest would be served by the transfer of the sewer business to Fox Run Utilities, LLC, as it has the technical expertise to operate the system in accordance with the requirements of the Kentucky Public Service Commission and the Kentucky Division of Water and has obtained the issuance of an Irrevocable Standby Letter of Credit. As stated in Paragraph 6 above, Fox Run Utilities, LLC, has the requisite ability to provide adequate sewer service to the residents of the Fox Run Subdivision in Franklin County consistent with the public interest.

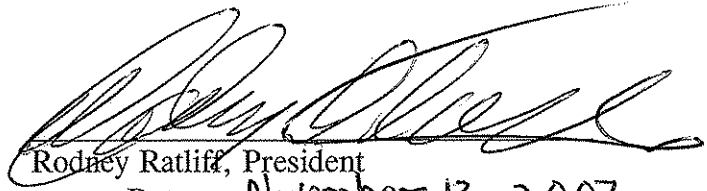
9. Fox Run Utilities, LLC, has filed a Notice of Adoption as described in 807 KAR 5:011. (See Exhibit H).

10. The journal entry of Fox Run Utilities, LLC proposes to make to record the transfer is attached hereto as Exhibit I.

WHEREFORE, the undersigned Joint Applicants respectfully request the Public Service Commission to issue an Order finding that Fox Run Utilities, LLC, has the financial, technical, and managerial abilities to provide reasonable service to the wastewater customers of Fox Run Subdivision, which includes the operation of the Fox Run Subdivision Wastewater Treatment System; that the proposed transaction is in accordance with law, is for a proper purpose, and is consistent with the public interest; and that the proposed transfer of the sewer business by Downstream, Inc., to Fox Run Utilities, LLC, is authorized and approved.

Respectfully submitted,

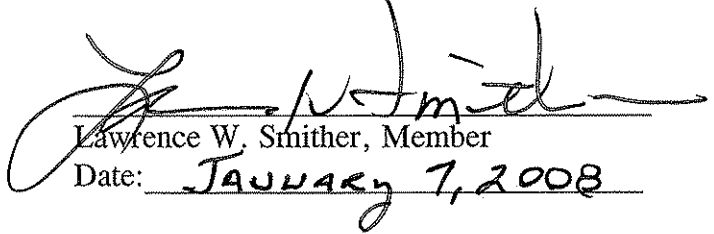
DOWNSTREAM, INC.



Rodney Ratliff, President

Date: November 13, 2007

FOX RUN UTILITIES, LLC



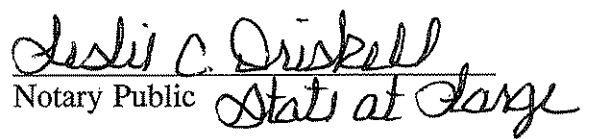
Lawrence W. Smither, Member

Date: JANUARY 7, 2008

STATE OF KENTUCKY )  
 )  
COUNTY OF FRANKLIN )

Signed and sworn to before me by Rodney Ratliff, as President of Downstream, Inc., this the 13th day of November, 2007.

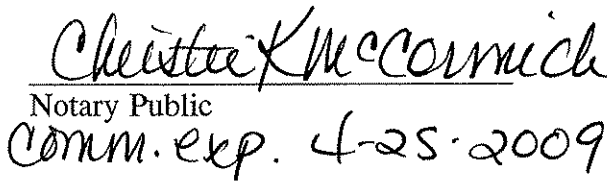
My commission expires: July 22, 2010

  
Notary Public State at Large

STATE OF KENTUCKY )  
 )  
COUNTY OF OLDHAM )

Signed and sworn to before me by Lawrence W. Smither, as a Member of Fox Run Utilities, LLC, this the 7th day of January, 2008

My commission expires: 4-25-2009

  
Notary Public  
Comm. exp. 4-25-2009

# ATTACHMENT A

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## ASSETS PURCHASE AGREEMENT

This is an Assets Purchase Agreement (“Agreement”) dated as of the \_\_\_\_ day of \_\_\_\_\_, 2007, by and between Downstream, Inc., P. O. Box 191, Frankfort, Kentucky 40601, party of the First Part (hereinafter called the “Seller”), and Fox Run Utilities, LLC, 1706 Bardstown Road, Louisville, Kentucky 40205-1212, party of the Second Part (hereinafter called the “Buyer”).

### RECITALS

WHEREAS, the Seller owns and operates certain wastewater collection, conveyance and treatment facilities (the “Wastewater System”), serving land located in or adjacent to property known as Fox Run Subdivision in Franklin County, Kentucky. The Wastewater System includes a \_\_\_\_\_ gallon per day wastewater treatment plant and associated sanitary sewers, pumping stations, force mains, sewer easements and land.

WHEREAS, the Seller desires to sell and the Buyer desires to purchase the Wastewater System in accordance with and subject to the provisions of this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged by the parties, and in consideration of the mutual covenants and agreements contained in this Agreement, and intending to be legally bound, the parties hereto agree as follows:

### **SECTION I PURCHASE AND SALE**

Section 1.1 Sale of Assets. The Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller the below listed assets (the “Assets”). The Assets will be conveyed and transferred to the Buyer at the Closing, which will take place within thirty (30) days after entry of the Public Service Commission’s order approving the Joint Application for Approval of Transfer of the Wastewater System;

(a) Property. The Fox Run wastewater treatment plant and associated sanitary sewers, pumping stations, force mains, equipment, sewer easements and site upon which the wastewater treatment plant is located, serving land located in or adjacent to the property known as Fox Run Subdivision in Franklin County, Kentucky, owned by Seller. The Seller will convey to Buyer the site upon which the wastewater treatment plant is located and associated easements by general warranty deed.

(b) Records. Copies of all records of the Seller relating to the ownership, operation, maintenance and design of the Wastewater System, including but not limited to sewer maps, construction plans and drainage plans that may exist.

(c) Governmental Approvals. Any KPDES discharge permit issued to Seller by the Kentucky Department for Environmental Protection, Division of Water, and as amended from time



to time, and all other existing approvals, certificates of public convenience and necessity, permits, licenses, orders, tariffs, and similar rights obtained from governments and governmental agencies to the extent Seller's interest therein is transferrable and related to the ownership or operation of the Wastewater System.

Section 1.2 Terms and Conditions of Sale.

(a) The purchase price to be paid by Buyer to Seller for the assets described in Section 1.1 above shall be One Dollar (\$1.00). The parties further agree:

(i) Any applicable property tax and other taxes and Public Service Commission Assessments due and payable for 2008 shall be pro-rated as of the date of closing. Buyer shall pay any sales tax due on the sale of the assets to it.

(ii) That Customer payments received after the Closing shall be retained by Buyer. Where collection efforts are required in order to recover unpaid amounts from customers of the Cedarbrook Wastewater System, the Buyer and the Seller agree to cooperate in the collection efforts and Buyer shall be entitled to retain the proceeds, but Buyer agrees to reimburse Seller the collection expenses incurred by Seller from the proceeds collected for each individual overdue debt.

(iii) Seller agrees to pay to Buyer the amount of \$7,500.00 at the closing of the transfer of the Wastewater System (hereinafter "Closing"), said amount to be used to purchase three two horse-power grinder pumps and one electrical control panel for use in the Wastewater System. In the alternative, Seller may provide to Buyer three new two horse-power grinder pumps and one new electrical control panel which meet the Buyer's specifications.

(iv) Seller agrees to pay to the Buyer at the Closing any and all legal fees incurred by Buyer in preparing, filing and representing the parties in the Joint Application for Approval of Transfer to be filed with the Public Service Commission, and the legal fees incurred by the Buyer at the closing.

(v) Seller agrees to complete in a workmanlike manner, the repairs to the wastewater treatment plant that are currently being performed by Mr. Coker.

**SECTION II**

**CLOSING**

Section 2.1. Closing. The Closing provided for in this Agreement will take place at the offices of Hazelrigg & Cox, LLP within thirty (30) days after the entry of the Kentucky Public Service Commission's Order approving the Joint Application for Approval of Transfer of the Wastewater System.

Section 2.2. Closing Obligations. At the Closing:

(a) Seller will deliver to Buyer:

(i) A Bill of Sale documenting the sale to Buyer of the Wastewater System, including but not limited to the wastewater treatment plant, collection system, and appurtenances, fixtures, supplies and equipment listed on Attachment A;

(ii) A General Warranty deed reflecting the conveyance of the Wastewater System Treatment Plant Site located in Franklin County, Kentucky, to Buyer. Said Deed shall be in the form reflected in Attachment B.

(iii) The records set forth on Exhibit C and copies of correspondence forwarded to the appropriate government agencies requesting the transfer to Buyer of all permits, licenses, orders, tariffs and other similar rights.

(iv) The amount of \$7,500.00. In the alternative, Seller may provide to Buyer proof that Seller has purchased and delivered to Buyer three new two horse-power grinder pumps and one new electrical control panel which meet the Buyer's specifications.

(v) A resolution of the Seller authorizing the Seller to enter into this Agreement.

(vi) The amount equal to the legal fees incurred by the Buyer in preparing, filing and representing the parties in the Joint Application for Approval of Transfer to be filed with the Public Service Commission and the legal fees incurred by the Buyer at the closing.

(b) Buyer will deliver to Seller:

(i) Payment of One Dollar (\$1.00);

(ii) The resolution of the Buyer authorizing the Buyer to enter into and to perform this Agreement.

### SECTION III

#### REPRESENTATIONS AND WARRANTIES OF THE SELLER

Section 3.01. Organization and Authority. The Seller is a for-profit corporation duly organized and in existence under the laws of the Commonwealth of Kentucky, for which Seller states that all reports required to be filed with the Kentucky Secretary of State have been filed, and for which no articles of dissolution have been filed with the Kentucky Secretary of State. The execution and delivery by Seller of this Assets Purchase Agreement, as well as the documents described herein will constitute the legal, valid, and binding obligations of Seller, enforceable against Seller in accordance with their respective terms. Seller has the absolute authority to execute and deliver these documents and to perform its obligations under same.

Section 3.02. Books and Records. The books and records concerning the design, operation, maintenance, and repair of the Wastewater System have been made available to the Buyer.

Section 3.03. No Undisclosed Liabilities. Seller is not aware of any Company liabilities or obligations of any nature (whether known or unknown and whether absolute, accrued, contingent, or otherwise) except for current liabilities incurred in the Ordinary Course of Business.

Section 3.04. Disclosure. No representation or warranty of Seller in this Agreement omits a material fact necessary to make the statements herein accurate.

Section 3.05. Brokers or Finders. Seller and his agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement.

Section 3.06. KPDES Permit. Seller agrees that it has a current KPDES permit for the operation of the Wastewater System, and that it will take the necessary steps to ensure that the Wastewater System is properly permitted when it is transferred to the Buyer, including but not limited to by submitting a properly completed application to renew said KPDES permit as required by the applicable regulations.

## SECTION IV

### REPRESENTATIONS AND WARRANTIES OF THE BUYER

Section 4.01. Approval of Purchase and Authorization, Execution and Delivery of this Agreement. The Buyer has been duly authorized to undertake and fulfill by all necessary action the execution of this Assets Purchase Agreement, and the execution of same constitutes a valid and binding obligation of the Buyer in accordance with its terms.

Section 4.02. Brokers or Finders. The Buyer and its agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement.

## ARTICLE V

### COVENANTS OF SELLER

Section 5.01. Access and Investigation. Between the date hereof and the Closing Date, Seller will (a) afford the Buyer and its Representatives (collectively, "The Buyer's Advisors") full and free access to the Seller's personnel, properties (including subsurface testing), contracts, books and records, and other documents and data, concerning the operation, maintenance and repair of the Cedarbrook Wastewater System.

Section 5.02. Operation of the Businesses of the Company. Between the date hereof and the Closing Date, Seller will:

- (a) conduct its business only in the Ordinary Course of Business;

(b) use its Best Efforts to maintain the relations and good will with suppliers, customers, landlords, creditors, employees, agents, and others with whom it has business relationships;

(c) confer with the Buyer concerning operational matters of a material nature; and

(d) promptly notify the Buyer in writing if Seller becomes aware of any fact or condition that

causes or constitutes a Breach of any of Seller's representations and warranties as of the date of this Agreement.

Section 5.03. Required Approvals. As promptly as practicable after the date hereof, Seller will make or assist in the submission of all filings required in order to consummate the sale of the Wastewater System to the Buyer. Between the date hereof and the Closing Date, Seller will, cooperate with the Buyer with respect to all filings that the Buyer elects to make in connection with the purchase of the Fox Run Wastewater System and to obtain any necessary consent(s) to complete this transaction.

Section 5.04. Cooperation: Seller hereby agrees to cooperate fully with the Buyer in preparing a rate case to be filed with the Public Service Commission upon the approval of the transfer of the Fox Run Wastewater Treatment Plant to the Buyer. This cooperation shall include the provision of records, review of documents and all other reasonable steps and/or assistance requested by Buyer.

Section 5.05. Indemnification. Seller will indemnify and hold harmless Buyer, and will pay to Buyer the amount of any damages, including but not limited to incidental and consequential damages, expenses of investigation, defense, court costs and reasonable attorneys fees, whether or not involving a third-party claim, arising directly or indirectly, from or in connection with (a) any breach of any covenant, obligation, representation or warranty made by Seller, or (b) any liability for damages, claims or causes of action resulting from actions taken by Seller prior to the closing.

Section 5.06. Indemnification. Buyer will indemnify and hold harmless Seller, and will pay to Seller, the amount of any damages, including but not limited to incidental and consequential damages, expenses of investigation, defense, court costs and reasonable attorneys fees, whether or not involving a third-party claim, arising directly or indirectly, from or in connection with (a) any breach of any covenant, obligation, representation or warranty made by Buyer, or (b) any liability for claims or causes of action resulting from the operation of the Wastewater System after the closing.

## ARTICLE VI

### COVENANTS OF THE BUYER

Section 6.01. Approvals of Governmental Bodies. As promptly as practicable after the date of this Agreement, the Buyer will make all filings required to consummate the purchase of the Cedarbrook Wastewater System, and will cooperate in the preparation and filing of the Joint Application necessary to obtain the Public Service Commission's approval of said purchase.

Section 6.02. Best Efforts. Between the date of this Agreement and the Closing Date, the Buyer will

use its Best Efforts to cause the conditions set forth herein to be satisfied, and to obtain the consents necessary to consummate the transaction contemplated herein.

## ARTICLE VII

### TERMINATION

Section 7.01. Termination Event. This Agreement may, by notice given prior to or at the Closing, be terminated:

(a) by either the Buyer or Seller if a material Breach of any provision of this Agreement has been committed by the other party and such Breach has not been waived.

(b) by mutual consent of the Buyer and Seller; or

(c) by either the Buyer or Seller if the Closing has not occurred (other than through the failure of any party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before or such later date as the parties may agree upon; or

(d) by either party should additional information disclosed after execution of this Agreement, by way of document review, disclosure, or any other means, have a material and adverse affect on the terms of this Agreement.

The unimpaired right to pursue all legal and equitable remedies available to the parties shall survive such termination.

## SECTION VIII

### GENERAL PROVISIONS

Section 8.01. Notices. All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of service if served personally on the party to whom notice is to be given, (b) on the day after delivery to a nationally recognized overnight courier service, or the Express Mail service maintained by the United States Postal Service, or (c) on the fifth (5<sup>th</sup>) day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and addressed as follows:

If to Seller, to:

Rodney R. Ratliff  
Downstream, Inc.  
207 Holmes Street - Rear  
P. O. Box 191  
Frankfort, Kentucky 40602

If to the Buyer, to:

Martin Cogan  
Downstream Utilities, LLC  
1706 Bardstown Road  
Louisville, Kentucky 40205

Section 8.02. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement, and, in the event of an ambiguity, or, a question of intent or a need for interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

Section 8.03. Severability. If any provision of this Agreement is declared by any court or other governmental body to be null, void, or unenforceable, this Agreement shall be construed so that the provision at issue shall survive to the extent it is not so declared and that all of the other provisions of this Agreement shall remain in full force and effect.

Section 8.04. Entire Agreement. This Agreement contains the entire understanding between the parties to this Agreement with respect to the transactions contemplated by this Agreement and supersedes and replaces all prior and contemporaneous agreements and understandings, oral or written, with regard to those transactions. All exhibits to this Agreement are expressly made a part of this Agreement as fully as though completely set forth herein.

Section 8.05. Amendments; Waivers. This Agreement may be amended or modified, and any of the terms, covenants, representations, warranties, or conditions hereof may be waived, only by a written instrument executed by the parties to this Agreement, or in the case of a waiver, by the party waiving compliance.

Section 8.06. Governing Law, Jurisdiction. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Kentucky (without giving effect to the principles of conflicts of laws thereof). The parties to this Agreement irrevocably agree and consent to the jurisdiction of the courts of the Commonwealth of Kentucky for the adjudication of any matters arising under or in connection with this Agreement.

Section 8.07. Survival of Representations and Warranties. All representations, warranties and covenants by any party to this Agreement contained in this Agreement or in any certificate or other instrument delivered by or on behalf of any party pursuant to this Agreement shall be continuous and shall survive the closing.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement effected as of the date first above written.

**'SELLER'**

DOWNSTREAM, INC.

By: \_\_\_\_\_  
Rodney R. Ratliff, President

Date: \_\_\_\_\_

**"BUYER"**

FOX RUN UTILITIES, LLC

By: \_\_\_\_\_  
Martin G. Cogan, Member

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Lawrence W. Smither, Member

Date: \_\_\_\_\_

# ATTACHMENT B



# Commonwealth of Kentucky

OFFICE OF  
SECRETARY OF STATE

DREXELL R. DAVIS  
Secretary



FRANKFORT,  
KENTUCKY

## CERTIFICATE OF INCORPORATION

I, DREXELL R. DAVIS, Secretary of State of the Commonwealth of Kentucky, do hereby certify that Articles of Incorporation of

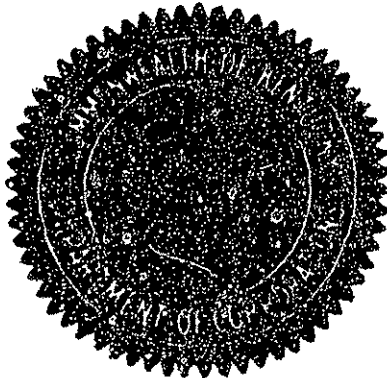
DOWNSTREAM, INC.

whose initial agent for process is WALTER MALMER

U. S. HIGHWAY 127 SOUTH

and whose address is FRANKFORT, KENTUCKY

duly signed according to law, have been filed in my office. I further certify that all taxes, fees and charges payable upon the filing of said Articles of Incorporation have been paid.



SECRETARY OF STATE

Given under my hand and seal of Office as Secretary of State, at Frankfort, Kentucky, this 26TH day of NOVEMBER, 1979.

Drexell R. Davis  
SECRETARY OF STATE

ASSISTANT SECRETARY OF STATE

ORIGINAL COPY  
FILED AND RECORDED  
SECRETARY OF STATE OF KENTUCKY  
FRANKFORT, KENTUCKY

NOV 26 1979

*Dorell Davis*  
SECRETARY OF STATE

ARTICLES OF INCORPORATION  
OF  
DOWNSTREAM, INC.

SECRETARY OF STATE  
**RECEIVED**  
NOV 26 1979  
*Ch \$25.00*  
Commonwealth of Kentucky  
**154151**

JOHNSON, JUDY & GAINES, ATTORNEYS AT LAW, 326 WEST MAIN STREET, FRANKFORT, KENTUCKY 40602

We, the undersigned natural persons, having capacity to contract and acting as incorporators of a corporation under the Kentucky Business Corporation Act hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE I

The name of the corporation shall be Downstream, Inc.

ARTICLE II

The period of its duration is perpetual.

ARTICLE III

The purpose or purposes for which this corporation is organized is to transact any and all lawful business for which corporations may be incorporated under the Kentucky Business Corporation Act, including the purchasing, holding and developing of real estate in the State of Kentucky, or elsewhere, including the leasing, renting, managing, controlling, owning, and selling buildings and structures and said corporation shall have the authority to buy, sell, lease, hold and rent real and personal property for this corporation and others, and said corporation shall have the authority to buy, sell, convey, lease, pledge, mortgage, exchange, assign or otherwise acquire, hold and dispose of, handle and otherwise deal in and with real and personal property or any interest therein or whatever name, nature, and description, and wherever the same may be situated, either within or without the Commonwealth of Kentucky, and to exercise unlimitedly all rights and powers incident to the acquisition, holding or disposition of such interest; to do all things necessary or desirable

JOHNSON, JUDY & GAINES, ATTORNEYS AT LAW, 326 WEST MAIN STREET, FRANKFORT, KENTUCKY 40602

to protect or enhance directly or indirectly the value of any interests owned by the corporation or in which it may have any beneficial interests or rights; to borrow money, credit, or property, to make contracts and to incur obligations and to secure the same by mortgage or pledge of all or part of its assets or franchises; to act for others in any capacity or manner, to participate with others and to merge or to consolidate with other concerns in any business, enterprise or transaction which the company is authorized to engage in, in any manner or on any terms; to buy, sell, pledge, exchange, assign or otherwise acquire, hold and dispose of stocks, bonds, and negotiable securities; and to do any and all other acts consistent with the purposes hereinabove set forth, as now or hereafter authorized by law for a corporation, it being the intention that the enumeration of specific powers shall not operate to limit in any manner the general powers conferred upon corporations by the law of the Commonwealth of Kentucky.

#### ARTICLE IV

The total number of shares authorized to be issued and the authorized class thereof shall be three hundred (300) shares of common stock, and said shares shall be of no par value. The voting of said stock shall be one vote per share.

#### ARTICLE V

The address of the initial registered office of said corporation shall be U.S. Highway 127 South, Frankfort, Kentucky 40601, and the name and address of the process agent of the corporation shall be Walter Mahner, U.S. Highway 127 South, Frankfort, Kentucky 40601.

JOHNSON, JUDY T. GAINES, ATTORNEYS AT LAW, 322 WEST MAIN STREET, FRANKFORT, KENTUCKY 40602

ARTICLE VI

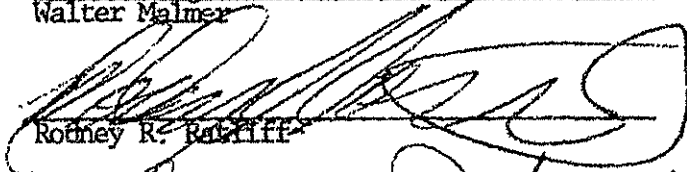
There shall be three directors constituting the initial Board of Directors of the corporation. They shall serve until the first annual meeting of the shareholders. The name and addresses of the directors are Walter Malmer, U.S. Highway 127 South, Frankfort, Kentucky 40601; Rodney R. Ratliff, Leawood Drive, Frankfort, Kentucky 40601; and Olney M. Patrick whose address is 504 Leawood Drive, Frankfort, Kentucky 40601.

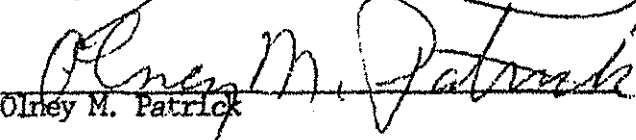
ARTICLE VII

The name and address of the incorporators and the number of shares subscribed to them is as follows: Walter Malmer, U.S. Highway 127 South, Frankfort, Kentucky 40601, 100 shares; Rodney R. Ratliff, Leawood Drive, Frankfort, Kentucky 40601, 100 shares; and Olney M. Patrick, 504 Leawood Drive, Frankfort, Kentucky 40601, 100 shares.

IN WITNESS WHEREOF, we have made, signed and acknowledged these Articles of Incorporation in triplicate originals, this 30<sup>th</sup> day of October, 1979.

  
Walter Malmer

  
Rodney R. Ratliff

  
Olney M. Patrick

COMMONWEALTH OF KENTUCKY  
COUNTY OF FRANKLIN

I, the undersigned, a notary public in and for the Commonwealth and County aforesaid, hereby certify that Walter Malmer, Rodney R. Ratliff, and Olney M. Patrick personally appeared before me and acknowledged and delivered the foregoing Articles of Incorporation of Downstream, Inc., to be their free

act and ( ad as incorporators of said corporation.

Witness my hand and seal of office this 30<sup>th</sup> day of October, 1979.

Mrs. Marjorie Janko  
Notary Public  
State of Kentucky at Large

My Commission Expires: 5-28-80

THIS INSTRUMENT PREPARED BY:

Paul C. Gaines III  
Paul C. Gaines III  
Johnson, Judy & Gaines  
326 W. Main Street - Box 756  
Frankfort, Kentucky 40602

JOHNSON, JUDY & GAINES, ATTORNEYS AT LAW, 326 WEST MAIN STREET, FRANKFORT, KENTUCKY 40602

# ATTACHMENT C

**MINUTES OF MEETING OF BOARD OF DIRECTORS OF DOWNSTREAM, INC.**

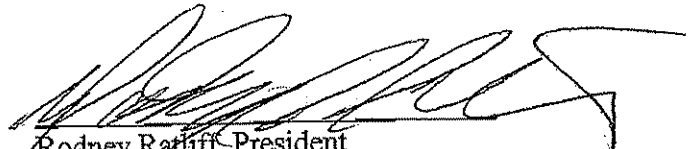
A special meeting of the Board of Directors of Downstream, Inc., was held at Frankfort, Kentucky, at approximately \_\_ p.m., on \_\_\_\_\_. Present were Rodney Ratliff and Dr. O. M. Patrick, constituting the full membership of the said Board. All members of the Board of Directors waived formal written notice of said Special Meeting. By unanimous consent, Rodney Ratliff presided as Chairman and Secretary.

The Chairman discussed the negotiation of the sale of the Fox Run Subdivision Wastewater System located in Franklin County, Kentucky and related assets, and proceeds owned by, administered by or maintained by Downstream, Inc., to Fox Run Utilities, LLC. On motion duly made, seconded and unanimously carried, the following resolution was adopted:

RESOLVED, that Downstream, Inc., is hereby authorized to negotiate and complete the sale of the Fox Run Subdivision wastewater treatment plant, including but not limited to the real property and fixtures, machinery, equipment and other personal property related to same, and all accounts (cash, checking and/or receivables) to Fox Run Utilities, LLC, to enter into and execute the documents necessary to consummate the sale of said Wastewater system, which will include an Assets Purchase Agreement, and deed conveying the treatment plant site to Fox Run Utilities, LLC, and to take all actions necessary to consummate the sale of said Wastewater System to Fox Run Utilities, LLC, including the signing of a Joint Application for Approval of Transfer to be submitted to the Public Service Commission.

BE IT FURTHER RESOLVED, Rodney Ratliff is hereby authorized to enter into and execute any and all documents, including documents to be filed with the Public Service Commission, necessary to consummate the sale of the Fox Run Subdivision Wastewater System, including the real property and related assets, to Fox Run Utilities, LLC.

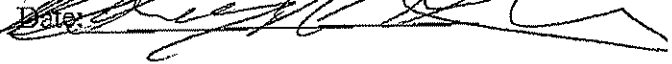
There being no further business to come before the meeting, the same was adjourned by unanimous consent.



Rodney Rathiff, President

Date: November 13, 2007

Rodney Rathiff, Secretary





# ATTACHMENT D

RECEIVED IN OFFICE

JAN 10 2008

By \_\_\_\_\_ D.C.

**ARTICLES OF ORGANIZATION  
OF  
FOX RUN UTILITIES, LLC**

**0678555.06**

Dcornish  
LAOO

Trey Grayson  
Secretary of State  
Received and Filed  
11/13/2007 4:33:10 PM  
Fee Receipt: \$40.00

The undersigned organizer, desiring to form a Limited Liability Company under the Kentucky Limited Liability Company Act hereby states as follows:

**ARTICLE I**

The name of the Limited Liability Company is Fox Run Utilities, LLC.

**ARTICLE II**

The name and address of the original registered agent is Robert C. Moore, 415 West Main Street, P.O. Box 676, Frankfort, Kentucky 40602-0676.

**ARTICLE III**

The mailing address of the initial principle place of business of the Limited Liability Company is: 1706 Bardstown Road, Louisville, Kentucky, 40205.

**ARTICLE IV**

The Limited Liability Company has two members.

**ARTICLE V**

The Limited Liability Company is to be managed by its members.

**ARTICLE VI**

Unless earlier dissolved in accord with the Kentucky Limited Liability Company Act and the operating agreement of the Limited Liability Company, the duration of Fox Run Utilities, LLC, is perpetual.

**ARTICLE VII**

Except as otherwise provided by Kentucky law, no member, manager, agent or employee of the Limited Liability Company shall be personally liable for the debts, obligations, or liabilities of the Limited Liability Company, whether arising in contract, tort or otherwise, or for the acts or omissions of any other member, manager, agent or employee of the Limited Liability Company.

**IN TESTIMONY WHEREOF**, the undersigned has duly executed these Articles of Organization this thirteenth day of November, 2007.

IN TESTIMONY WHEREOF, the undersigned has duly executed these Articles of Organization this thirteenth day of November, 2007.

Robert C. Moore  
Robert C. Moore, Organizer

STATE OF KENTUCKY )  
 )SS  
COUNTY OF FRANKLIN )

SWORN TO AND ACKNOWLEDGED before me this thirteenth day of November, 2007, by Robert C. Moore, organizer.

My commission expires 3/17/10.

Dancy & Bailey  
NOTARY PUBLIC

CONSENT OF INITIAL REGISTERED AGENT FOR SERVICE OF PROCESS

I, Robert C. Moore, registered agent, having a principle place of business of 415 West Main Street, P.O. Box 676, Frankfort, Kentucky 40602-0676, hereby agree and consent to serve as registered officer and agent for service of process of Fox Run Utilities, LLC.

Robert C. Moore  
Robert C. Moore

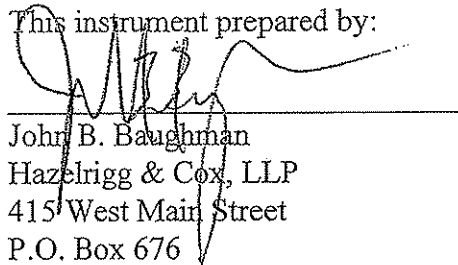
STATE OF KENTUCKY )  
 )SS  
COUNTY OF FRANKLIN )

SWORN TO AND ACKNOWLEDGED before me this thirteenth day of November, 2007, by Robert C. Moore.

My commission expires 3/17/10.

Dancy & Bailey  
NOTARY PUBLIC

This instrument prepared by:



---

John B. Baughman

Hazelrigg & Cox, LLP

415 West Main Street

P.O. Box 676

Frankfort, Kentucky 40602-0676

# ATTACHMENT E



ERNIE FLETCHER  
GOVERNOR

**ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

DIVISION OF WATER

14 REILLY ROAD

FRANKFORT, KENTUCKY 40601-1190

[www.kentucky.gov](http://www.kentucky.gov)

May 28, 2007

TERESA J. HILL  
SECRETARY

Mr. Rodney Ratliff  
Downstream, Inc.  
P.O. Box 191  
Frankfort, Kentucky 40602

Re: Fox Run Subdivision  
KPDES No.: KY0086967  
Franklin County, Kentucky

Dear Mr. Ratliff:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for the above-referenced facility. This action constitutes a final permit issuance under 401 KAR 5:075, pursuant to KRS 224.16-050.

This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted. All provisions of the permit will be effective and enforceable in accordance with 401 KAR 5:075, unless stayed by the Hearing Officer under Sections 11 and 13.

Any demand for a hearing on the permit shall be filed in accordance with the procedures specified in KRS 224.10-420, 224.10-440, 224.10-470 and any regulations promulgated thereto. Any person aggrieved by the issuance of a permit final decision may demand a hearing, pursuant to KRS 224.10-420(2), within thirty (30) days from the date of the issuance of this letter. Two (2) copies of request for hearing should be submitted in writing to the Environmental and Public Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Environmental and Public Protection Cabinet, Division of Water, 14 Reilly Road, Frankfort, Kentucky 40601. For your record keeping purposes, it is recommended that these requests be sent by certified mail. The written request must conform to the appropriate statutes referenced above.

If you have any questions regarding the KPDES decision, please contact Diana Davidson, Municipal Permit Section, KPDES Branch, at (502) 564-8158, extension 341.

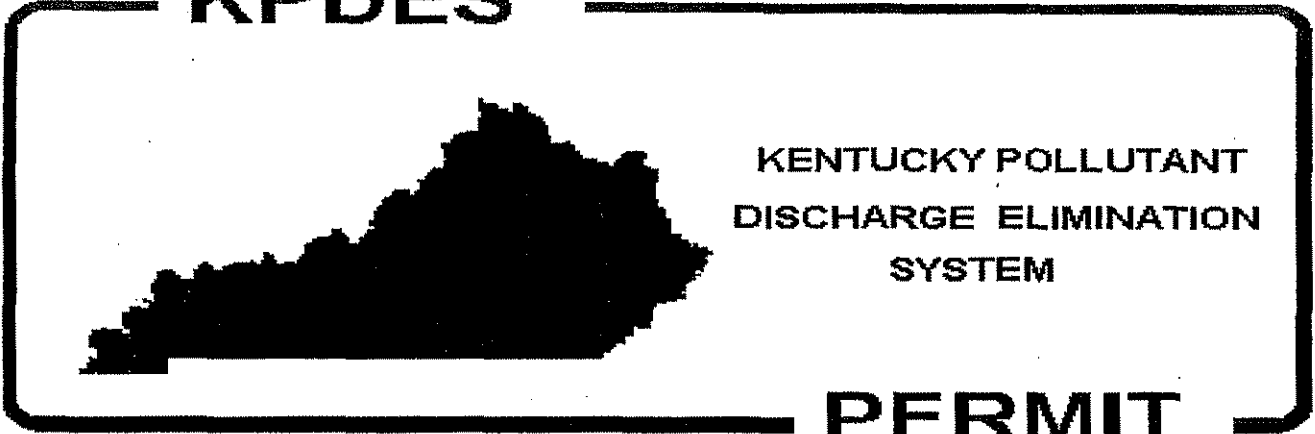
Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Office of Administrative Hearings at (502) 564-7312.

Sincerely,

David W. Morgan, Director  
Division of Water

DWM:NG:ng  
Enclosure  
c: Division of Water Files

# KPDES



PERMIT NO.: KY0086967  
AI NO.: 1388

## AUTHORIZATION TO DISCHARGE UNDER THE KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Downstream, Inc.  
P.O. Box 191  
Frankfort, KY 40602

is authorized to discharge from a facility located at

Fox Run Subdivision  
U.S. Highway 60 West  
Frankfort, Franklin County, Kentucky

to receiving waters of

an unnamed tributary at mile point 0.17 to an unnamed tributary at mile point 1.15 to South Benson Creek at mile point 5.40

in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit. The permit consists of this Cover Sheet, a Subject Item Inventory Sheet, Effluent Limitations and Monitoring Requirements, and Facility Requirements.

This permit shall become effective on July 1, 2007.

This permit and the authorization to discharge shall expire at midnight, June 30, 2012.

May 28, 2007  
Date Signed

David W. Morgan, Director  
Division of Water

Cheryl A. Taylor  
Commissioner

**Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System**

Fox Run Subd

Subject Item Inventory

Permit Number: KY0086967

Activity ID No.: APE20060001

**Subject Item Inventory:**

ID	Designation	Description
AIOO1388		
MNPT1	KY0086967 001	sanitary discharge

**Receiving Stream Relationships:**

Subject Item	Relationship	Receiving Stream
MNPT1 sanitary discharge	Discharges Into	Unnamed Tributary 1
	Then Into	South Benson Creek

**KEY**

ACTV = Activity

AREA = Area

EQPT = Equipment

PERS = Personnel

STOR = Storage

TRMT = Treatment

AIOO = Agency Interest

COMB = Combustion

MNPT = Monitoring Point

PORT = Transport

STRC = Structure



# EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Subject Item: sanitary discharge  
 MNPT0000000001: KY0086967 001

Such discharges shall be limited and monitored by the permittee as specified below:

Parameter	Discharge Limitations						Monitoring Requirements			
	Quantity / Loading Average	Quantity / Loading Maximum	Quantity / Loading Units	Conc. / Quality Minimum	Conc. / Quality Average	Conc. / Quality Maximum	Conc. / Quality Units	Frequency	Sample Type	Which Months
<i>Ammonia Nitrogen, Total (as N) effluent gross value</i>	0.67 Monthly average (AV)	1.0 Daily maximum (MX)	lbs/day	*****	4 Monthly average (AV)	6 Daily maximum (MX)	mg/L	monthly	composite sample	May - October
<i>Ammonia Nitrogen, Total (as N) effluent gross value</i>	1.67 Monthly average (AV)	2.5 Daily maximum (MX)	lbs/day	*****	10 Monthly average (AV)	15 Daily maximum (MX)	mg/L	monthly	composite sample	November - April
<i>BOD<sub>5</sub>, Carbonaceous 05 Day, 20C effluent gross value</i>	5.0 Monthly average (AV)	7.5 Maximum weekly average	lbs/day	*****	30 Monthly average (AV)	45 Maximum weekly average	mg/L	monthly	composite sample	All Year
<i>Chlorine, Total Residual effluent gross value</i>	*****	*****	*****	*****	0.011 Monthly average (AV)	0.019 Daily maximum (MX)	mg/L	monthly	grab sampling	All Year
<i>E. Coli effluent gross value</i>	*****	*****	*****	*****	130 Monthly geometric mean	240 Maximum weekly geometric mean	#/100 mL	monthly	grab sampling	All Year
<i>Flow, In Conduit Or Thru Treatment Plant effluent gross value</i>	Report Monthly average (AV)	Report Daily maximum (MX)	MGD (MA)	*****	*****	*****	*****	monthly	instantaneous measurement	All Year
<i>Oxygen, Dissolved effluent gross value</i>	*****	*****	*****	7.0 Instantaneous minimum	*****	*****	mg/L	monthly	grab sampling	All Year
<i>pH effluent gross value</i>	*****	*****	*****	6.0 Minimum	*****	9.0 Maximum	standard units	monthly	grab sampling	All Year

## EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Subject Item: sanitary discharge  
 MNPT0000000001: KY0086967 001

Such discharges shall be limited and monitored by the permittee as specified below:

Parameter	Discharge Limitations						Monitoring Requirements			
	Quantity / Loading Average	Quantity / Loading Maximum	Quantity / Loading Units	Conc. / Quality Minimum	Conc. / Quality Average	Conc. / Quality Maximum	Conc. / Quality Units	Frequency	Sample Type	Which Months
Solids, Total Suspended (TSS) effluent gross value	5.0 Monthly average (AV)	7.5 Maximum weekly average	lbs/day	*****	30 Monthly average (AV)	45 Maximum weekly average	mg/L	monthly	composite sample	All Year

**Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System**

Fox Run Subd

Facility Requirements

Permit Number:ky0086967

Activity ID No.: APE20060001

Page 1 of 11

**MNPT1 (KY0086967 001) sanitary discharge:**

**Submittal/Action Requirements:**

Condition No.	Condition
S-1	Duty to reapply: Any permittee with a currently effective permit shall submit permit application for renewal: Due 180 calendar days before permit expiration date of the existing permit, unless permission for a later date has been granted by the cabinet. The cabinet shall not grant permission for applications to be submitted later than the expiration date of the existing permit. [401 KAR 5:060 Section 1(5)]
S-2	Discharge Monitoring Report (DMR): The permittee shall submit analytical results on monthly Discharge Monitoring Report (DMR) : Due monthly, by the 28th of the following month to the Division of Water. [401 KAR 5:065 Section 1(12)(d)]

**Narrative Requirements:**

**Part I A Effluent Limitations and Monitoring Requirements:**

Condition No.	Condition
T-1	Part I A Effluent Limitations and Monitoring Requirements: The average daily design capacity for this treatment plant is 0.020 mgd. [401 KAR 5:005 Section 24(4)(a)]
T-2	Part I A Effluent Limitations and Monitoring Requirements: There shall be no discharge of floating solids or visible foam in other than trace amounts. [401 KAR 5:031 Section 2]
T-3	Part I A Effluent Limitations and Monitoring Requirements: Effluent samples shall be taken at the following location: nearest accessible point after final treatment, but prior to actual discharge or mixing with receiving waters. [401 KAR 5:070 Section 3(1)]

**Part I B Schedule of Compliance:**

Condition No.	Condition
T-4	Part I B Schedule of Compliance: The permittee shall achieve compliance with all requirements on the effective date of this permit. [401 KAR 5:070 Section 2]

**Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System**

Fox Run Subd  
 Facility Requirements  
 Permit Number:ky0086967  
 Activity ID No.: APE20060001

**MNPT1 (continued):**

**Narrative Requirements:**

**Part II Standard Conditions for KPDES Permit:**

Condition No.	Condition
T-5	Part II Standard Conditions for KPDES Permit: The permittee is also advised that all KPDES permit conditions in KPDES Regulation 401 KAR 5:065, Section 1, will apply to all discharges authorized by this permit. This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies. It is the responsibility of the permittee to demonstrate compliance with permit parameter limitations by utilization of sufficiently sensitive analytical methods. [401 KAR 5:055 Section 1]
T-6	Part II Standard Conditions for KPDES Permit: Surface waters shall not be aesthetically or otherwise degraded by substances that: (a) Settle to form objectionable deposits; (b) Float as debris, scum, oil, or other matter to form a nuisance; (c) Produce objectionable color, odor, taste, or turbidity; (d) Injure, are chronically or acutely toxic to or produce adverse physiological or behavioral responses in humans, animals, fish and other aquatic life; or (e) Produce undesirable aquatic life or result in the dominance of nuisance species. [401 KAR 5:031 Section 2]
T-7	Part II Standard Conditions for KPDES Permit: Each wastewater system shall be operated under the supervision of an individual holding a Kentucky operator's certificate for at least the class of system supervised. [401 KAR 5:010 Section 2(1)]
T-8	Part II Standard Conditions for KPDES Permit: This treatment unit is temporary and in no way supersedes the need of a regional sewer system. The permittee will eliminate the discharge and treatment unit by connection to a regional sewer system when it becomes available as defined in 401 KAR 5:002. [401 KAR 5:005 Section 4(6)]
T-9	Part II Standard Conditions for KPDES Permit: Duty to Comply, General Requirement: The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of KRS Chapter 224, among which are the following remedies: enforcement action, permit revocation, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 1(1)(a)]
T-10	Part II Standard Conditions for KPDES Permit: Duty to Reapply: If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit as required in 401 KAR 5:060, Section 1. [401 KAR 5:065 Section 1(2)]
T-11	Part II Standard Conditions for KPDES Permit: Duty to Mitigate: The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. [401 KAR 5:065 Section 1(4)]

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd  
Facility Requirements  
Permit Number:ky0086967  
Activity ID No.: APE20060001

## MNPT1 (continued):

### Narrative Requirements:

#### Part II Standard Conditions for KPDES Permit:

Condition No.	Condition
T-12	<p>Part II Standard Conditions for KPDES Permit: Proper Operation and Maintenance: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 1(5)]</p>
T-13	<p>Part II Standard Conditions for KPDES Permit: Permit Actions: The permit may be modified, revoked and reissued, or revoked for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition. [401 KAR 5:065 Section 1(6)]</p>
T-14	<p>Part II Standard Conditions for KPDES Permit: Duty to Provide Information: The permittee shall furnish to the cabinet, within a reasonable time, any information which the cabinet may request to determine whether cause exists for modifying, revoking and reissuing, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the cabinet, upon request, copies of records required to be kept by this permit. [401 KAR 5:065 Section 1(8)]</p>
T-15	<p>Part II Standard Conditions for KPDES Permit: Inspection and Entry: The permittee shall allow the cabinet, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:</p> <ul style="list-style-type: none"><li>(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records pertinent to the KPDES program are or may be kept;</li><li>(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;</li><li>(c) Inspect at reasonable times any facilities, equipment, including monitoring and control equipment, practices, or operations regulated or required under this permit; and</li><li>(d) Sample or monitor at reasonable times, for the purposes of assuring KPDES program compliance or as otherwise authorized by KRS Chapter 224, any substances or parameters at any location. [401 KAR 5:065 Section 1(9)]</li></ul>
T-16	<p>Part II Standard Conditions for KPDES Permit: Monitoring and records: Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. [401 KAR 5:065 Section 1(10)(a)]</p>

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd  
Facility Requirements  
Permit Number:ky0086967  
Activity ID No.: APE200600001

## MNPT1 (continued):

### Narrative Requirements:

#### Part II Standard Conditions for KPDES Permit:

Condition No.	Condition
T-17	<p>Part II Standard Conditions for KPDES Permit: Monitoring and records: The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 1(10)(b)]</p>
T-18	<p>Part II Standard Conditions for KPDES Permit: Monitoring and records: Records of monitoring information shall include:</p> <ol style="list-style-type: none"><li>1. The date, exact place, and time of sampling or measurements;</li><li>2. The individuals who performed the sampling or measurements;</li><li>3. The dates analyses were performed;</li><li>4. The individuals who performed the analyses;</li><li>5. The analytical techniques or methods used; and</li><li>6. The results of the analyses. [401 KAR 5:065 Section 1(10)(c)]</li></ol>
T-19	<p>Part II Standard Conditions for KPDES Permit: Monitoring and records: Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit. [401 KAR 5:065 Section 1(10)(d)]</p>
T-20	<p>Part II Standard Conditions for KPDES Permit: Monitoring and records: Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the permit shall, upon conviction, be subject to penalties under KRS 224.99-010(4). [401 KAR 5:065 Section 1(10)(e)]</p>
T-21	<p>Part II Standard Conditions for KPDES Permit: Signatory Requirement: All applications, reports, or information submitted to the cabinet shall be signed and certified as indicated in 401 KAR 5:060, Section 9. Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be subject to penalties under KRS 224.99-010(4). [401 KAR 5:065 Section 1(11)]</p>

**Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System**

Fox Run Subd  
Facility Requirements  
Permit Number:ky0086967  
Activity ID No.: APE20060001

**MNPT1 (continued):**

**Narrative Requirements:**

**Part II Standard Conditions for KPDES Permit:**

Condition No.	Condition
T-22	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Planned changes: The permittee shall give notice to the cabinet as soon as possible of any physical alteration or additions to the permitted facility. Notice is required only when:</p> <ol style="list-style-type: none"><li>1. The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source in 401 KAR 5:080, Section 5;</li></ol> <p>or</p> <ol style="list-style-type: none"><li>2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject either to effluent limitations in the permit, or to notification requirements under 401 KAR 5:080, Section 5. [401 KAR 5:065 Section 1(12)(a)]</li></ol>
T-23	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Anticipated Noncompliance: The permittee shall give advance notice to the cabinet of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. [401 KAR 5:065 Section 1(12)(b)]</p>
T-24	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Transfers: The permit is not transferable to any person except after notice to the Cabinet. The cabinet may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under KRS Chapter 224. [401 KAR 5:065 Section 1(12)(c)]</p>
T-25	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Monitoring Reports: Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 1(12)(d)]</p>
T-26	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Monitoring Reports: Monitoring results shall be reported as follows: Monitoring results shall be reported on a Discharge Monitoring Report (DMR). [401 KAR 5:065 Section 1(12)(d)1]</p>
T-27	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Monitoring Reports: Monitoring results shall be reported as follows: If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. [401 KAR 5:065 Section 1(12)(d)2]</p>
T-28	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Monitoring Reports: Monitoring results shall be reported as follows: Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Cabinet in the permit. [401 KAR 5:065 Section 1(12)(d)3]</p>

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd

Facility Requirements

Permit Number:ky0086967

Activity ID No.: APE20060001

Page 6 of 11

## MNPT1 (continued):

### Narrative Requirements:

#### Part II Standard Conditions for KPDES Permit:

Condition No.	Condition
T-29	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Compliance Schedules: Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date. [401 KAR 5:065 Section 1(12)(e)]</p>
T-30	<p>Part II Standard Conditions for KPDES Permit: Twenty-four (24) hour reporting. The permittee shall follow the provisions of 401 KAR 5:015 and shall orally report any noncompliance which may endanger health or the environment, within 24 hours from the time the permittee becomes aware of the circumstances. This report shall be in addition to and not in lieu of any other reporting requirement applicable to the noncompliance. [401 KAR 5:065 Section 1(12)(f)]</p>
T-31	<p>Part II Standard Conditions for KPDES Permit: Twenty-four (24) hour reporting. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The cabinet may waive the written report on a case-by-case basis if the oral report has been received within 24 hours. [401 KAR 5:065 Section 1(12)(f)]</p>
T-32	<p>Part II Standard Conditions for KPDES Permit: Twenty-four (24) hour reporting. The following shall be included as events which shall be reported within 24 hours:</p> <ol style="list-style-type: none"><li>1. Any unanticipated bypass which exceeds any effluent limitation in the permit, as indicated in subsection (13) of this section;</li><li>2. Any upset which exceeds any effluent limitation in the permit; or</li><li>3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the cabinet in the permit to be reported within 24 hours, as indicated in Section 2(7) of this administrative regulation. [401 KAR 5:065 Section 1(12)(f)]</li></ol>
T-33	<p>Part II Standard Conditions for KPDES Permit: Any person having knowledge in advance of the necessity to bypass a sewage system shall notify the Division of Water before such bypass is commenced. Notification shall be given as far in advance as possible. [401 KAR 5:015 Section 1]</p>
T-34	<p>Part II Standard Conditions for KPDES Permit: Whenever by reason of emergency or accident a spill or discharge occurs from a sewage system or from a container or pipeline used to transport or store substances which would result in or contribute to the pollution of the waters, the person in charge of such activity shall immediately notify the Division of Water by the most rapid means available at 1-800-928-2380. [401 KAR 5:015 Section 2]</p>



# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd

Facility Requirements

Permit Number: KY0086967

Activity ID No.: APE20060001

## MNPT1 (continued):

### Narrative Requirements:

#### Part II Standard Conditions for KPDES Permit:

Condition No.	Condition
T-35	<p><b>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Other Noncompliance:</b> The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of 401 KAR 5:065, Section 1 (12), (Monitoring Reports, Compliance Schedules, and Twenty-four (24) hour reporting) when monitoring reports are submitted. The reports shall contain the information listed under Compliance Schedules. [401 KAR 5:065 Section 1(12)(g)]</p>
T-36	<p><b>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Other information:</b> Where the permittee becomes aware that it failed to submit any relevant fact in a permit application, or submitted incorrect information in a permit application or in any report to the Cabinet, it shall promptly submit these facts or information. [401 KAR 5:065 Section 1(12)(h)]</p>
T-37	<p><b>Part II Standard Conditions for KPDES Permit: Occurrence of a Bypass - Notice:</b> Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass. Compliance with this requirement constitutes compliance with 401 KAR 5:015, Section 1. [401 KAR 5:065 Section 1(13)(b)1]</p>
T-38	<p><b>Part II Standard Conditions for KPDES Permit:</b> No person shall construct, modify, or operate a facility without having received a permit from the cabinet. A construction or modification permit is not required for maintenance replacement for components of an existing facility or for changes which do not affect the treatment processes of the facility, but is required for replacement of an entire wastewater treatment plant. The operational permit provisions of 401 KAR 5:005, Section 27, shall be satisfied by those facilities which have a valid KPDES permit issued pursuant to 401 KAR 5:050 to 5:080. [401 KAR 5:005 Section 1]</p>

#### Part III Other Requirements:

Condition No.	Condition
T-39	<p><b>Part III Other Requirements: KPDES Permit Reopener Clause:</b> This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under 401 KAR 5:050 through 5:080 and KRS 224.70-120, if the effluent standard or limitation so issued or approved: Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or Controls any pollutant not limited in the permit. The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable. [401 KAR 5:070 Section 6]</p>

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd  
Facility Requirements  
Permit Number:ky0086967  
Activity ID No.: APE20060001

## MNPT1 (continued):

### Narrative Requirements:

#### Part III Other Requirements:

Condition No.	Condition
T-40	<p>Part III Other Requirements: A permit to construct a facility shall be effective upon issuance unless otherwise conditioned. Construction shall be completed within twelve (12) months unless additional time is requested. If construction is not commenced within the twelve (12) months following a permit's issuance, a new permit shall be obtained before construction may begin. The cabinet may allow a single twelve (12) month extension to begin construction if site conditions have not changed. [401 KAR 5:005 Section 24(1)]</p>
T-41	<p>Part III Other Requirements: Applicability. Any person responsible for conducting any of the following activities shall prepare and implement a groundwater protection plan: [List 1 of 2] storing or related handling of bulk quantities of pesticides or fertilizers for commercial purposes or distribution to a retail sales outlet; applying of pesticides or fertilizers for commercial purposes or for public right-of-way maintenance or institutional lawn care; land treatment or land disposal of a pollutant; storing, treating, disposing, or handling of hazardous waste, solid waste, or special waste in landfills, incinerators, surface impoundments, tanks, drums, other containers, or in piles; commercial or industrial storing or related handling in bulk quantities of raw materials, intermediate substances or products, finished products, substances held for recycling, or other pollutants held in tanks, drums, other containers, or in piles; transmission in pipelines of raw materials, intermediate substances or products, finished products, or other pollutants; installation or operation of on-site sewage disposal systems. [401 KAR 5:037 Section 2(2)]</p>
T-42	<p>Part III Other Requirements: Applicability. Any person responsible for conducting any of the following activities shall prepare and implement a groundwater protection plan: [List 2 of 2] storing or related handling of road oils, dust suppressants, or deicing agents at a central location; application or related handling of road oils, dust suppressants or deicing materials; mining and associated activities; installation, construction, operation, or abandonment of wells, bore holes, or core holes; collection or disposal of pollutants in an industrial or commercial facility through the use of floor drains which are not connected to on-site sewage disposal systems, closed-loop collection or recovery systems, or a waste treatment system permitted under KPDES; impoundment or containment of pollutants in surface impoundments, lagoons, pits, or ditches; or commercial or industrial transfer, including loading and unloading, in bulk quantities of raw materials, intermediate substances or products, finished products, substances held for recycling, or other pollutants. [401 KAR 5:037 Section 2(2)]</p>

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd  
 Facility Requirements  
 Permit Number:ky0086967  
 Activity ID No.: APE20060001

**MNPT1 (continued):**

**Narrative Requirements:**

**Part III Other Requirements:**

Condition No.	Condition
T-43	Part III Other Requirements: The permit is issued to the applicant and the permittee shall remain the responsible party for compliance with all applicable statutes and administrative regulations until a notarized applicable change in ownership certification is submitted and the transfer of ownership is acknowledged by the cabinet. [401 KAR 5:005 Section 24(3)]
T-44	Part III Other Requirements: The permittee shall ensure that the effluent is of satisfactory quality to prevent violations of the standards in 401 KAR Chapter 5. If violations of the standards of 401 KAR Chapter 5 result from the discharge of the treated effluent, the owner shall provide additional treatment or an extension of the effluent line. [401 KAR 5:005 Section 24(4)(c)1]
T-45	Part III Other Requirements: Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this section for a period of at least three (3) years from the date the application is signed. [401 KAR 5:060 Section 6]
T-46	Part III Other Requirements: All wastewater treatment plants shall have a disinfection process which meets one of the four following requirements: (a) An ultraviolet disinfection system designed to treat the anticipated peak hourly flow; (b) a chlorination system with a flow or demand proportional feed system. The chlorine contact tank shall have a minimum detention time of thirty (30) minutes based on the average flow, or fifteen (15) minutes based on the peak hourly flow, whichever requires the larger tank size. Wastewater treatment plants shall also have a dechlorination system with a flow or demand proportional feed system if necessary to meet the effluent limits; or (c) a chlorination system with a manually controlled feed system and a flow equalization basin designed to eliminate the diurnal flow variations. (d) Other disinfection processes providing equivalent treatment as approved by the cabinet. [401 KAR 5:005 Section 11(1), 401 KAR 5:065 Section 1(5)]
T-47	Part III Other Requirements: The flow measuring device shall measure all flow received at the wastewater treatment plant. An indicating, recording, and totalizing flow measuring device shall be installed at each large wastewater treatment plant. [401 KAR 5:005 Section 12, 401 KAR 5:065 Section 1(5)]
T-48	Part III Other Requirements: For a slow sand filter, the distribution piping shall be designed to drain properly. [401 KAR 5:005 Section 15(6), 401 KAR 5:065 Section 1(5)]
T-49	Part III Other Requirements: Flow equalization basins shall have an emergency overflow to an appropriate point in the treatment scheme. [401 KAR 5:005 Section 17(1)(c), 401 KAR 5:065 Section 1(5)]
T-50	Part III Other Requirements: Wastewater treatment lagoons shall be at least 200 feet from any present or future residence. [401 KAR 5:005 Section 18(3), 401 KAR 5:065 Section 1(5)]

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd  
Facility Requirements  
Permit Number:ky0086967  
Activity ID No.: APE20060001

## MNPT1 (continued):

### Narrative Requirements:

#### Part III Other Requirements:

Condition No.	Condition
T-51	Part III Other Requirements: A water supply shall be provided to facilitate cleaning and maintenance of the wastewater treatment plant. If a potable source is provided, backflow preventers shall be installed to protect the water supply. [401 KAR 5:005 Section 10(6), 401 KAR 5:065 Section 1(5)]
T-52	Part III Other Requirements: Fencing and/or other adequate protection shall be provided around the wastewater treatment plant. [401 KAR 5:005 Section 10(7), 401 KAR 5:065 Section 1(5)]
T-53	Part III Other Requirements: An all-weather access road shall be provided to the wastewater treatment plant. [401 KAR 5:005 Section 10(8), 401 KAR 5:065 Section 1(5)]
T-54	Part III Other Requirements: No bypass or overflow structure of any type shall be constructed in any sewer line or pump station or at any wastewater treatment plant unless specifically approved by the cabinet in writing. [401 KAR 5:005 Section 7(5), 401 KAR 5:065 Section 1(5)]
T-55	Part III Other Requirements: Sharp crested weirs shall be used for measuring effluent flow only and shall have the following characteristics: the weir shall be installed perpendicular to the axis of flow and there shall be no leakage at the weir edges or bottom; the weir plate shall be level and adjustable; the sides of a rectangular contracted weir shall be vertical; the angles of V-notch weirs shall be cut precisely; the thickness of the weir crest shall be less than one-tenth (0.1) of an inch; the distance from the weir crest to the bottom of the approach channel shall be more than one foot or two times the maximum weir head, whichever is greater; the distance from the sides of the weir to the sides of the approach channel shall be more than one foot or two times the maximum weir head, whichever is greater. This does not apply to suppressed rectangular weirs; air shall circulate freely under, and on both sides of, the nappe; the measurement of head on the weir shall be made at least four times the maximum weir head upstream from the weir crest; the cross-sectional area of the approach channel shall be at least eight times the area of the nappe. The approach channel shall be straight and uniform upstream from the weir for a distance of fifteen times the maximum weir head; the minimum acceptable weir head is two-tenths (0.2) foot; the maximum downstream pool level shall be at least two-tenths (0.2) foot below the crest elevation; the weir length for a rectangular, suppressed, or Cipolletti weir shall be at least three times the maximum weir head; and a reference staff gauge shall be provided. [401 KAR 5:005 Section 12(2), 401 KAR 5:065 Section 1(5)]

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Fox Run Subd  
 Facility Requirements  
 Permit Number:ky0086967  
 Activity ID No.: APE20060001

**MNPT1 (continued):**

**Narrative Requirements:**

**Part III Other Requirements:**

Condition No.	Condition
T-56	<p><b>Part III Other Requirements:</b> Parshall flumes may be used to measure influent or effluent flows and shall have the following characteristics: the approach channel upstream of the flume shall be straight and have a width uniform for the length required by the following: if the flume throat width is less than one-half (1/2) the width of the approach channel, the straight upstream channel length shall be twenty times the throat width; if the flume throat width is equal to or larger than one-half (1/2) the width of the approach channel, the straight upstream length shall be greater than ten times the approach channel width; and if the cross-sectional area of the inlet to the approach channel is smaller than the cross-sectional area of the approach channel, additional straight upstream channel length may be required to dissipate the velocity; the throat section walls shall be vertical; the head measuring point shall be at two-thirds (2/3) the length of the converging sidewall; the flow shall be evenly distributed across the channel, shall be free of turbulence or waves, and shall not be located after transition sections; the longitudinal and lateral axes of the converging crest floor shall be level; free flow conditions shall be maintained; and a reference staff gauge shall be provided for Ha and Hb to determine if submergence occurs. [401 KAR 5:005 Section 12(3), 401 KAR 5:065 Section 1(5)]</p>
T-57	<p><b>Part III Other Requirements:</b> A positive sludge return shall be provided for the extended aeration package wastewater treatment plant. [401 KAR 5:005 Section 10(5), 401 KAR 5:065 Section 1(5)]</p>
T-58	<p><b>Part III Other Requirements:</b> Tablet type chlorination equipment shall not be used in intermediate or large wastewater treatment plants. [401 KAR 5:005 Section 11(2), 401 KAR 5:065 Section 1(5)]</p>
T-59	<p><b>Part III Other Requirements:</b> Food grinders and garbage disposal units shall be eliminated where possible from the plumbing system of the school. [401 KAR 5:005 Section 24(4)(a), 401 KAR 5:065 Section 1(5)]</p>
T-60	<p><b>Part III Other Requirements:</b> An audible and visible alarm shall be provided at the wastewater pump station. [Ten States (WW) 45, 401 KAR 5:065 Section 1(5)]</p>
T-61	<p><b>Part III Other Requirements:</b> If the discharge from the wastewater treatment plant enters a sinkhole directly or enters a disappearing stream, the applicant shall submit a proposal for a groundwater tracer study or results from a previously conducted study to the cabinet for approval. [401 KAR 5:005 Section 4(5)]</p>
T-62	<p><b>Part III Other Requirements:</b> The permittee shall comply with Requirements for Recording and Reporting of Monitoring Results:</p> <ol style="list-style-type: none"> <li>(1) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods, including biological monitoring methods when appropriate;</li> <li>(2) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; and</li> <li>(3) Applicable reporting requirements based upon the impact of the regulated activity and as specified in 401 KAR 5:065, Sections 1 and 2. Reporting shall be no less frequent than specified in 401 5:070, Section 2, Schedules of Compliance. [401 KAR 5:070 Section 3]</li> </ol>



ERNIE FLETCHER  
GOVERNOR

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER  
14 REILLY ROAD  
FRANKFORT, KENTUCKY 40601-1190  
www.kentucky.gov

TERESA J. HILL  
SECRETARY

**FACT SHEET**

**KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM  
PERMIT TO DISCHARGE TREATED WASTEWATER  
INTO WATERS OF THE COMMONWEALTH**

KEDES No.: KY0086967 Permit Writer: Diana Davidson Date: May 28, 2007  
AI No.: 1388

1. **SYNOPSIS OF APPLICATION**

a. Name and Address of Applicant

Downstream, Inc.  
P.O. Box 191  
Frankfort, Kentucky 0602

b. Facility Location

Fox Run Subdivision  
U.S. Highway 60 West  
Frankfort, Franklin County, Kentucky

c. Description of Applicant's Operation

Subdivision

d. Design Capacity

0.020 MGD

e. Description of Existing Pollution Abatement Facilities

Facility has one discharge of sanitary wastewater which is treated by an extended aeration package treatment plant with chlorine disinfection.

mt

f. Permitting Action

This is a reissuance of a minor KPDES permit for a wastewater treatment plant serving a subdivision.

2. RECEIVING WATER

a. Name/Mile Point

Facility discharges to an unnamed tributary at mile point 0.17 to an unnamed tributary at mile point 1.15 to South Benson Creek at mile point 5.40. This facility is in the Kentucky River Basin Management Unit as per the Kentucky Watershed Management Framework.

b. Stream Segment Use Classification

Warmwater Aquatic Habitat, Primary/Secondary Contact Recreation, and Domestic Water Supply

c. Stream Segment Categorization

This stream is categorized as High Quality Water.

d. Stream Low Flow Condition

The 7-day, 10-year (7Q10) low flow condition of the receiving stream is 0.00 cfs.

**3. REPORTED DISCHARGE AND PROPOSED LIMITS - SANITARY FACILITY**

Serial Number 001 - Sanitary Wastewater

Effluent Characteristics	Reported Discharge		Proposed Limits		Applicable Water Quality Criteria and/or Effluent Guidelines
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	
Flow (MGD) (Design Flow = 0.020 MGD)	0.0122	0.0405	Report	Report	401 KAR 5:065, Section 2(8)
CBOD <sub>5</sub> (mg/l)	7.62	7.62	30	45	401 KAR 5:031, Section 4 401 KAR 5:045, Sections 3 and 5
Total Suspended Solids (mg/l)	11.96	11.96	30	45	401 KAR 5:031, Section 4 401 KAR 5:045, Sections 2 and 3
Fecal Coliform (N/100 ml)	44.62	44.62	Removing from permit	Removing from permit	401 KAR 5:080, Section 1(2)(c)2
Escherichia Coli (N/100 ml)	NR	NR	130	240	401 KAR 5:031, Section 7 401 KAR 5:045, Section 4 401 KAR 5:080, Section 1(2)(c)2
Ammonia Nitrogen (as mg/l N) May 1 - October 31	4.8	4.8	4	6	401 KAR 5:031, Section 4
November 1 - April 30	2.2	2.2	10	15	401 KAR 5:045, Sections 3 and 5
Dissolved Oxygen (mg/l) (minimum)	4.2	NR	Not less than 2.0	Not less than 2.0	401 KAR 5:031, Section 4 401 KAR 5:045, Sections 3 and 5
pH (standard units)	6.45	7.38	6.0 (min)	9.0 (max)	401 KAR 5:031, Section 4 401 KAR 5:045, Section 4
Total Residual Chlorine, mg/l	NR	NR	0.011	0.019	401 KAR 5:031

The data contained under the reported discharge columns is not from the renewal application, but rather from the analysis of the DMR data that has been reported during the term of the previous permit.

The abbreviation CBOD<sub>5</sub> means Biochemical Oxygen Demand (5-day).  
 The abbreviation NR means not reported on the Discharge Monitoring Report (DMR).  
 The effluent limitations for CBOD<sub>5</sub> and Total Suspended Solids are Monthly Averages and Weekly Averages.  
 The effluent limitations for *Escherichia Coli* are 30 day and 7 day Geometric Means.



4. METHODOLOGY USED IN DETERMINING LIMITATIONS

a. Serial Number

Outfall 001 Sanitary Wastewater

b. Effluent Characteristics

Flow, Carbonaceous Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform Bacteria, *Escherichia Coli*, pH, Ammonia Nitrogen, Dissolved Oxygen, and Total Residual Chlorine (TRC).

c. Pertinent Factors

The Fox Run Subdivision and its wastewater treatment plant are located within the regional facility planning area of the city of Frankfort. Existing sewers are available within one mile of the facility and the regional facility appears available at this time for connection as defined in regulation 401 KAR 5:002, Section 1(21). This permit contains conditions requiring connection when sewers are available.

d. Monitoring Requirements

Flow shall be monitored instantaneously once per month.

Carbonaceous Biochemical Oxygen Demand (5-day), Total Suspended Solids, *Escherichia Coli*, pH, Ammonia Nitrogen, Dissolved Oxygen and Total Residual Chlorine shall be monitored once per month.

e. Justification of Conditions

The Kentucky regulations cited below have been duly promulgated pursuant to the requirements of Chapter 224 of the Kentucky Revised Statutes.

*Escherichia Coli* and Fecal Coliform Bacteria

The limits for *Escherichia Coli* are consistent with the requirements of 401 KAR 5:031, Section 7, 401 KAR 5:045 Section 4 and 401 KAR 5:080, Section 1(2)(c) 2. The removal of Fecal Coliform Bacteria is consistent with the requirements of 401 KAR 5:080k Section 1 (2) (c)2. Although Fecal Coliform Bacteria has been used as an indicator of fecal contamination, it does contain other species that are not necessarily fecal in origin. EPA recommends *Escherichia Coli*, which is specific to fecal material from warm-blooded animals, as the best indicator of health risk from contact with recreational waters. Therefore, it is the "Best Professional Judgment "BPJ" of the Division of Water that *Escherichia Coli* replace Fecal Coliform Bacteria on this permit.

Flow and Total Residual Chlorine

The monitoring requirements for these parameters are consistent with the requirements of 401 KAR 5:065, Section 2(8).

CBOD<sub>5</sub>, Ammonia Nitrogen, and Dissolved Oxygen

The limits for these parameters are consistent with the requirements of 401 KAR 5:031, Section 4, and 401 KAR 5:045, Sections 3 and 5. Section 4 of 5:031 establishes water quality criteria for the protection of Kentucky's waters. Section 5 of 5:045 requires biochemically degradable wastewaters to receive treatment in excess of secondary treatment if the Cabinet determines that the receiving water would not satisfy applicable water quality standards as a result of a facility discharge or discharges from multiple facilities.

4. METHODOLOGY USED IN DETERMINING LIMITATIONS - CONTINUED

Total Suspended Solids

The limits for this parameter are consistent with the requirements of 401 KAR 5:031, Section 4 and 5:045, Sections 2 and 3. Section 4 of 5:031 establishes water quality criteria for the protection of Kentucky's waters. Sections 2 and 3 of 5:045 require biochemically degradable wastewaters to receive secondary treatment.

pH

The limits for these parameters are consistent with the requirements of 401 KAR 5:031, Section 4 and 5:045, Section 4. Section 4 of 5:031 establishes water quality criteria for the protection of Kentucky's waters. Section 4 of 5:045 establishes the acceptable levels of these parameters for biochemically degradable wastewaters.

Daily Maximum vs Weekly Average Limitations

This facility is not a publicly owned treatment works (POTW) as defined under KRS 224.01-10. For non-POTW's, 401 KAR 5:065 Section 3(4) requires monthly average and daily maximum limitations unless impractical. The limitations under 401 KAR 5:045 for those facilities treating biochemically degradable wastes are not expressed in terms of a daily maximum; therefore, it is impractical to establish a daily maximum limitation. It is in the best professional judgment of the Division of Water that the limitations for those parameters specifically referenced in 401 KAR 5:045 should be expressed in terms of monthly average and weekly average.

5. ANTIDegradation

The conditions of 401 KAR 5:029, Section 1 have been satisfied by this permit action. Since this permit action involves reissuance of an existing permit, and does not propose an expanded discharge, a review under 401 KAR 5:030 Section 1 is not applicable.

6. PROPOSED COMPLIANCE SCHEDULE FOR ATTAINING EFFLUENT LIMITATIONS

The permittee will comply with all effluent limitations by the effective date of the permit.

7. PROPOSED SPECIAL CONDITIONS WHICH WILL HAVE A SIGNIFICANT IMPACT ON THE DISCHARGE

This treatment unit is temporary and in no way supersedes the need of a comprehensive sewer system. The permittee will eliminate the discharge and will connect to a comprehensive sewer system when it becomes available as defined in 401 KAR 5:002, provided such system can adequately treat the wastes.

8. PERMIT DURATION

Five (5) years.

9. PERMIT INFORMATION

The application, draft permit, fact sheet, public notice, comments received, and additional information is available from the Division of Water at 14 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

10. REFERENCES AND CITED DOCUMENTS

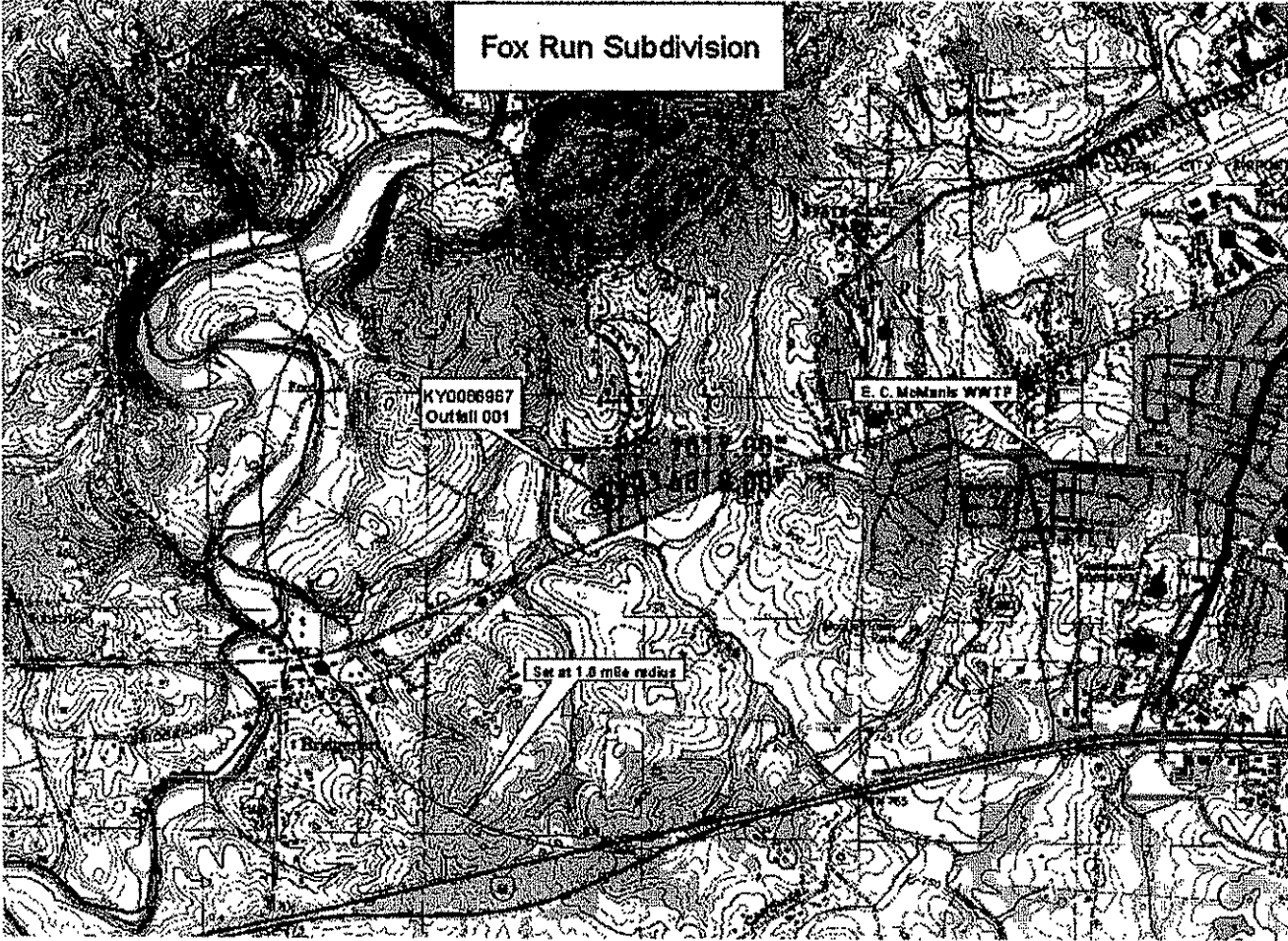
All material and documents referenced or cited in this fact sheet are a part of the permit information as described above and are readily available at the Division of Water Central Office. Information regarding these materials may be obtained from the person listed below.

11. CONTACT

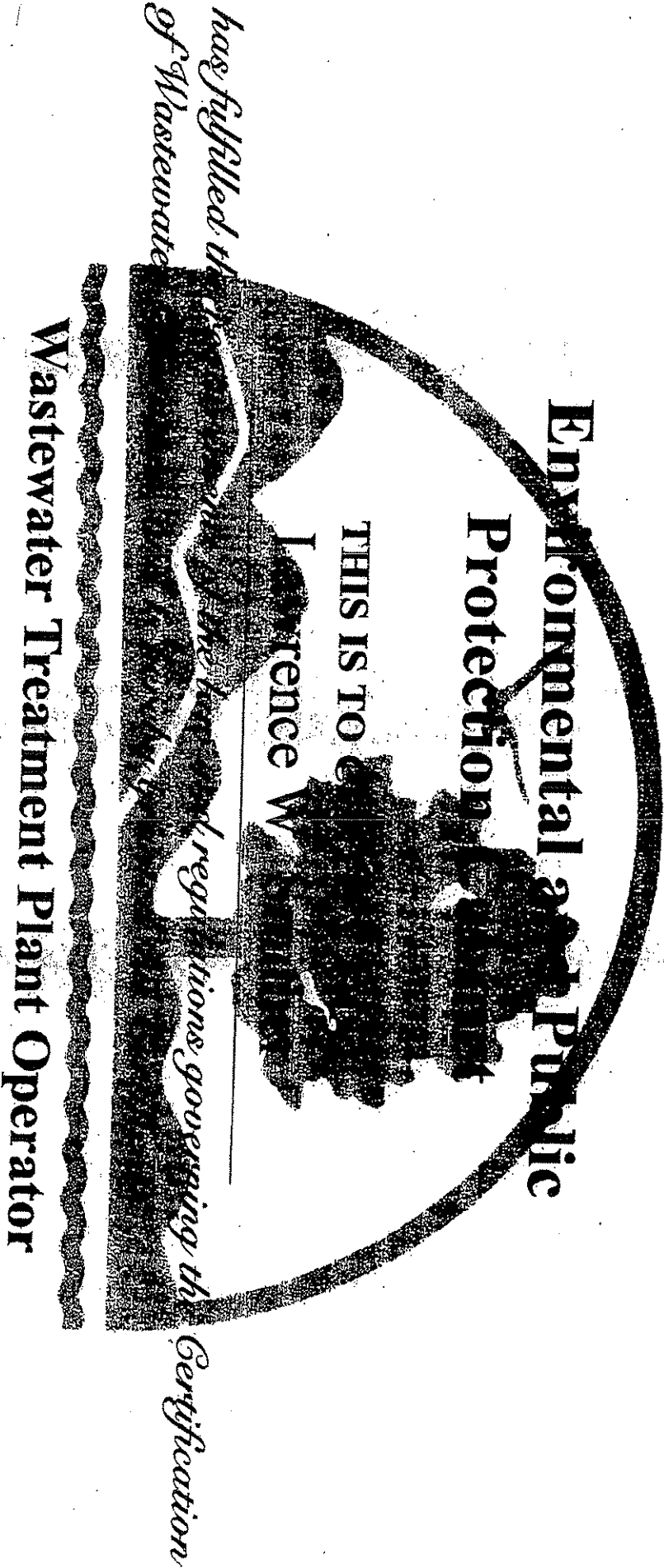
For further information on the draft permit or comment process, contact the individual identified on the Public Notice or the Permit Writer - Diana Davidson at (502) 564-2225, extension 341, or email Diana.Davidson@ky.gov.

12. PUBLIC NOTICE INFORMATION:

Please refer to the attached Public Notice for details regarding the procedures for a final decision, deadline for comments and other information required by 401 KAR 5:075, Section 4(2)(e).



# ATTACHMENT F



*Given under our hands this* \_\_\_\_\_ *at Frankfort, Kentucky*

\_\_\_\_\_ 26<sup>th</sup> \_\_\_\_\_ day of \_\_\_\_\_, 2004

Class II Certification No. 13390

**Wastewater Treatment Plant Operator**

*[Signature]*  
DIRECTOR, DIVISION OF WATER

*[Signature]*  
SECRETARY, ENVIRONMENTAL AND PUBLIC PROTECTION CABINET  
COMMISSIONER, DEPARTMENT FOR ENVIRONMENTAL PROTECTION

6322

Attachment C

ATTACHMENT G

TO BE PROVIDED

ATTACHMENT H

TO BE PROVIDED



ATTACHMENT I

TO BE PROVIDED