

RECEIVED

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

MAR 28 2012  
PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF:

APPALACHIAN WASTE CONTROL, INC.,

COMPLAINANT

VS:

Case No. 2012-00035

THELMA WASTE CONTROL, INC.,

DEFENDANT

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**RESPONSE TO COMMISSION STAFF'S REQUEST FOR INFORMATION**

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Comes the Defendant, Thelma Waste Control, Inc., by and through the aid of counsel, and files the foregoing Response to the Commission Staff's Request for Information:

1. Provide all correspondence between Appalachian Waste Control, Inc., ("Appalachian Waste") and Thelma Waste regarding Appalachian Waste's request for service.

ANSWER: Attached is a handwritten note wherein on October 12th, 2010, at 9:00 a.m., Greg Goode, Division of Water, called inquiring about the ownership and nonprofit status of Thelma Waste.

Attached is a letter dated December 1st, 2010, from John Baughman, the letter was not received until February 21st, 2011, and the response was sent to Mr. Baughman by the undersigned counsel on February 28<sup>th</sup>, 2011, also attached.

2. Provide all correspondence between Thelma 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: None to our knowledge.

3. List and describe all contacts that Thelma Waste has had with officials of the Kentucky Division of Water or Kentucky Energy and Environment Cabinet regarding the proposed.

ANSWER: None. However, a meeting occurred sometime in the spring of 2010 between County Judge Executive, R.T. Daniels, County Attorney Michael S. Endicott, and John West. At that time, oral discussions were made wherein John West offered to provide a pump and run a line from Neil Price Subdivision. No other monies were offered or suggested.

4. State the maximum capacity of Thelma Waste's sewage treatment plant.

ANSWER: It's uncertain what the maximum capacity is, but it is believed to be four thousand (4,000) gallons per a day at the subdivision in question. The maximum of four hundred (400) gallons per a day, per a household. See attached documents.

5. State the number of customers that Thelma Waste's sewage treatment plant currently serves.

ANSWER: The plant in question located in the Hughes Subdivision has ten (10) customers.

Plant Number One is approximately one (1) mile away and currently serving forty-five (45) homes that are occupied and an additional five (5) homes that are unoccupied. This varies from date to date.

6. State whether Thelma Waste agrees that KRS 278.280(3) authorizes the Public Service Commission to require a utility to make reasonable extensions of service.

ANSWER: Thelma Waste denies and disagrees that KRS 278.280(3) authorizes Public Service Commission to require the utility to make reasonable extensions of service and the content contained herein.

Specifically, this goes beyond the scope of the certificate granted to Thelma Waste, goes beyond the scope and the power of the Public Service Commission. See City of Bardstown v. Louisville Gas and Electric Company, 382, S.W.2d 918, as an example.

Furthermore, as a private, nonprofit corporation, who is currently in the red, requiring them

to take on additional expense and cost without revenue to match or exceed would simply cause the Public Service Commission to deal with Thelma Waste and receivership would have to be appointed to them.

7. State whether Thelma Waste objects to the construction of sewer collection mains that would connect its sewage treatment facilities to the collection mains now serving Appalachian Waste's customers. Describe and explain each objection.

ANSWER: Thelma Waste objects to the Petition contained herein on numerous reasons.

(1). The principal board does not feel it's their responsibility to take on the mess and clean up the mess of Appalachian Waste. They never created the mess, nor should they be responsible for same. Further, the Public Service Commission and its deputies and employees who are in charge of inspecting these particular plants and operations allowed this mess to occur without early intervention. Had the Public Service Commission or the appropriate Division of Water, or whoever was in charge therein, made the appropriate inspections and enforcement, we would not be here today;

(2). Thelma Waste on a particular matter does not have the financial ability to sustain additional cost.

In fact, at this point in time Thelma Waste is in the red. Documentation has been provided herein setting forth specifically how far in the red they are. As you could see, at the present time they do not have the ability to provide a grinder pump, which is needed.

Thelma Waste does not have the ability to take on additional expense, cost or maintenance. Specifically, Thelma Waste is a nonprofit company with all volunteers with the exception of one, Michael Conley, who maintains the plants and maintenance therein on a contract basis. Thelma Waste does not have one singular employee. Mr. and Mrs. Thomasson and all the board members

work for free. In fact, on many occasions they have had to fund monies to try to make sure that Thelma Waste's checks do not bounce.

Nor it's responsible at this time to suspect that they are going to be able to obtain a rate increase that could be collectable. The Thelma area is low to middle income area. Many of its residents are on fix incomes and there are at least five (5) houses that have been inhabited due to the housing bust, it is anticipated that more may also arise.



MICHAEL S. ENDICOTT  
Attorney for Respondent  
225 Court Street  
P.O. Box 181  
Paintsville, Ky 41240  
(606) 789-8232

Edward Thomasson

EDWARD THOMASSON, PRESIDENT OF  
THELMA WASTE CONTROL

Lucille Thomasson

LUCILLE THOMASSON, SECRETARY/  
TREASURER OF THELMA WASTE CONTROL

STATE OF KENTUCKY  
COUNTY OF JOHNSON

Subscribed, acknowledged, sworn to before me by Edward Thomasson, President of Thelma Waste Control, on this the 27 day of March, 2012, to be true and correct to the best of his knowledge and belief.

My Commission Expires:

June 21 2012  
Donna A. Gray  
NOTARY PUBLIC, STATE AT LARGE

STATE OF KENTUCKY  
COUNTY OF JOHNSON

Subscribed, acknowledged and sworn to before me by Lucille Thomasson, Secretary/Treasurer of Thelma Waste Control, on this the 27 day of March, 2012,

to be true and correct to the best of her knowledge and belief.

My Commission Expires:

June 21, 2012.

Jessica C. May  
NOTARY PUBLIC, STATE AT LARGE

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Response was mailed on this the 28 day of March 2012 to the following:

Original to:

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, Ky 40602

Copies to:

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

Michael S. Endicott  
MICHAEL S. ENDICOTT

**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

**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

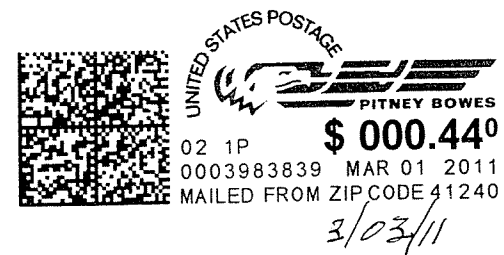
cc:

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

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



JOHNSON COUNTY ATTORNEY'S OFFICE  
MICHAEL S. ENDICOTT  
P.O. BOX 1287  
PAINTSVILLE, KENTUCKY 41240



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

4126080327 B004



**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 22, 2012

Hon. John B. Baughman  
Attorney at Law  
P. O. Box 676  
Frankfort, KY 40602

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

Dear Mr. Baughman:

By now, I trust you have received our response.

Enclosed herewith is a copy of the basic financial statement of Thelma Waste Control. As you can see, they do not have the ability to meet these obligations that you are requesting.

Please treat this as a forerunner to discovery in this case and we would appreciate your continued position in this matter.

Sincerely,



MICHAEL S. ENDICOTT

cc:

Judge R. Tucker Daniel  
P. Box 868  
Paintsville, KY 41240

Note for the file:

Oct. 12, 2010 - 9:10 a.m.

Greg Goode  
Div. of Water

Called and wanted to know the  
owner of Thelma Waste Control.  
Informed him TWC was non-profit,  
and officers and Board members  
are not compensated.

Stated he was inquiring for  
his supervisor - Shafik Amawi,  
Branch Manager.

THELMA WASTE CONTROL, INC.  
P.O. BOX 327  
THELMA, KENTUCKY 41260  
(606) 789-1483

AMOUNT OWED FEBRUARY 20, 2012

JOHNSON COUNTY FISCAL COURT		
PRINCIPAL PAYMENTS - KACO LOAN		
2008	\$2,200.00	
2009	7,000.00	
2010	8,000.00	
2012	9,000.00	\$26,200.00
KACO LOAN - PRINCIPAL PAYMENT		
DUE JANUARY 20, 2013		9,000.00
INTEREST PAYMENTS THRU 2012		334.87
PREMIUM FINANCING SPECIALISTS CORP.		
2011-2012 LIABILITY INSURANCE		
6 PAYMENTS OF \$334.92		2,009.52
KPDES PERMITS		
PLANT NO. 1	\$3,200.00	
PLANT NO. 2	\$2,200.00	
MINUS FILING FEES PAID		
JULY 23, 2011 IN AMOUNT OF \$900.00		4,500.00
PLANT OPERATOR		
EXTRA WORK PERFORMED		
SEPTEMBER 2011	\$300.00	
REBUILT BLOWER FOR		
PLANT NO. 1	\$300.00	600.00
TRI-COUNTY CONCRETE, INC.		
CHEMICALS (LATE BILLING -		
SEPTEMBER THRU DECEMBER 2011)		1,116.37
TREASURER - CERTIFIED MAIL		
MARCH 2011 THRU JANUARY 2012		
MONTHLY REPORTS TO DIVISION OF WATER		
IN FRANKFORT AND HAZARD		
PERMIT APPLICATIONS		
NOTIFICATION OF DISCONTINUING WATER		149.82
TOTAL AMOUNT OWED		\$43,910.58

# Thelma Waste Control

March 21, 2012

The following are the current issues with the Thelma plants 1 and 2 as well as the Thelma pump station.

## **Thelma #1 plant:**

Plant is missing 1 grinder pump.

1 - Sludge return pipe needs replaced.

8 - 1 ¼" airline valves need replaced.

4 - Floats need replaced in influent pump station.

The plant runs well and puts out good effluent samples.

Total estimated cost to repair this plant would be around \$2,000.00

## **Thelma #2 plant:**

Needs 1 Roots 33 blower.

Needs 1 2hp electrical motor for blower.

Bar screen needs replaced.

4 - 1 ¼" airline valves.

2 - Sections of galvanized grating needs replaced.

1 - 1hp sump pump.

Surge tank needs pumped out.

Plant runs well and puts out good samples but would need these issues corrected in order to take on the Neil Price Subdivision pump station.

Total estimated cost to repair this plant would be around \$3,800.00

**Thelma's Peach St Pump station:**

This is the pump station that sewage from Peach Street to the #1 plant.

Station was not renovated when the 2 plants were some time ago. This plant is in very bad shape and causing sewer back-ups on Peach St.

In order for the station to work as it should the only thing that would be re-used would be the holding tank. If it was repaired it would pay for itself quickly by reducing the amount of money spent on call-outs and septic hauling truck fees.

Station needs:

- 2 – New 2hp grinder pumps
- New float system
- New control panel
- New guiderail system for pumps

Total estimated cost for complete repairs on this station would be around \$7,000.00.

At this time the station has to have the pumps pulled and debris removed from them 4 – 5 days a week. The minimum amount of money that can be spent on this station to make temporary repairs at this time would be around \$1,450.00 to buy 1 new pump with a 5 – year warranty. The Public Service Commission along with the Division of Water wants to see this issue taken care of ASAP. If this is not addressed both of these entities will be issuing violations and fines will be assessed that will cost more than the total amount of repairs.



Mike Conley  
Plant Operator for Thelma Waste

STATE OF KENTUCKY  
COUNTY OF JOHNSON

Subscribed, acknowledged and sworn to before me by Mike Conley, on this the 27<sup>th</sup>  
day of March, 2012, to be true and correct to the best of his knowledge and  
belief.

My Commission Expires: 4/17/2016.

Laura C. Byers  
NOTARY PUBLIC, STATE AT LARGE

THELMA WASTE CONTROL, INC.  
 EXPENSES AND INCOME - YEAR OF 2011

MONTH	EXPENSES	INCOME (PAYMENTS RECEIVED)		
JANUARY	2,170.99	1,551.95		
FEBRUARY	2,151.42	2,108.24		
MARCH	1,407.43	1,508.30		
APRIL	1,588.85	1,663.77		
MAY	2,118.63	2,095.36		
JUNE	2,866.90	1,835.45		
JULY	2,185.70	2,446.03		
AUGUST	1,865.16	2,108.07		
SEPTEMBER	1,927.36	1,533.44		
OCTOBER	1,678.25	1,222.90		
NOVEMBER	2,398.91	2,263.76		
DECEMBER	1,545.84	1,626.55		
<b>TOTAL</b>	<b>23,906.44</b>	<b>22,463.82</b>		
CHECKING ACCOUNT BALANCE DECEMBER 31, 2010			1,631.16	
CHECKING ACCOUNT BALANCE DECEMBER 31, 2011			188.54	
DELINQUENT ACCOUNTS AS OF DECEMBER 31, 2011 (INCLUDES TWO ACCOUNTS IN LITIGATION TOTALING \$4,224.93)			9,893.91	





45-598 Eye-Ease®  
Made in USA

THELMA WASTE CONTROL, INC.  
EXPENSES AND INCOME - YEAR OF 2011

MONTH	PAINTS-	BIG	KACO	KACO	LIABILITY	TAXES
	VILLE UTILITIES	SANDY RECC	LOAN INTEREST	LOAN PRINCIPAL	INSURANCE	PROPERTY & PSC
JANUARY	2964	41525	8940	—	36591	—
FEBRUARY	2964	55329	5665	—	36591	41721
MARCH	3006	34806	6188	—	36591	—
APRIL	3006	37388	6000	—	36591	—
MAY	3006	36612	6174	—	36591	5000
JUNE	3006	34301	6000	—	—	—
JULY	3006	37485	6174	—	—	—
AUGUST	3006	39706	6174	—	—	—
SEPTEMBER	3458	38807	6000	—	—	16840
OCTOBER	3458	42051	6174	—	—	—
NOVEMBER	3458	48357	6000	—	87616	—
DECEMBER	3458	43530	6174	—	33492	—
TOTAL	37796	489897	75663	—	340654	63561



45-596 Eye-Ease®  
Made in USA

THELMA WASTE CONTROL, INC.  
EXPENSES AND INCOME - YEAR OF 2011

MONTH	POSTAGE	McCOY & McCOY LAB.		CHEMICALS	MAINT. PLANT OPERATOR	MAINT. PARTS & EQUIPMENT	REPAIR FENCE PLANT #1
JANUARY	---	25400	---	---	91500	10179	---
FEBRUARY	---	12652	12720	---	47500	---	---
MARCH	---	12652	---	---	47500	---	---
APRIL	---	25400	---	---	50500	---	---
MAY	** 15816	12652	28512	---	57500	* 121292	---
JUNE	---	---	---	---	64000	---	---
JULY	---	12652	18753	---	50500	---	40000
AUGUST	8800	36830	---	---	52000	*** 84041	---
SEPTEMBER	---	12930	---	---	47500	---	---
OCTOBER	---	10600	24802	---	64000	---	---
NOVEMBER	---	24460	---	---	55000	---	---
DECEMBER	---	12930	---	---	55000	---	---
TOTAL	24616	199158	84787	682500	215512	40000	

\* Includes Pump - \$1,200.00

\*\* Roll of Stamps  
Certified Mail - Sept. 2010 thru April 2011.

\*\*\* Pump Rebuild - Beach St. Lift Station - \$690.53  
Starter - Circuit Breaker, Clamps, Etc.  
+ Timer for Plant No. 2 - \$149.88



45-506 Eye-Ease®  
Made in USA

THELMA WASTE CONTROL, INC.

EXPENSES AND INCOME - YEAR OF 2011

MONTH	*SMITH'S SEPTIC SERVICE	**KY STATE TREASURER	TOTAL
JANUARY	---	---	2,170.99
FEBRUARY	---	---	2,151.42
MARCH	---	---	1,407.42
APRIL	---	---	1,588.85
MAY	150.00	---	2,118.63
JUNE	150.00	1500.00 ***	2,866.90
JULY	---	9000.00	2,185.70
AUGUST	---	---	1,865.16
SEPTEMBER	---	---	1,927.36
OCTOBER	---	---	1,679.25
NOVEMBER	150.00	---	2,398.91
DECEMBER	---	---	1,545.84
<b>TOTAL</b>	<b>450.00</b>	<b>9150.00</b>	<b>23,906.44</b>
<b>*PUMP PLANTS &amp; LIFT STATION</b>			
<b>**PERMIT APPLICATION FEES - PLANTS NOS. 1 &amp; 2</b>			
<b>*** - Filing Fee - 2011 Annual Report</b>			

**THELMA WASTE CONTROL, INC.**  
**P.O. BOX 327**  
**THELMA, KENTUCKY 41260**  
(606) 789-1483

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**THELMA WASTE CONTROL, INC.**  
**P.O. BOX 327**  
**THELMA, KENTUCKY 41260**  
**(606) 789-1483**

FEBRUARY 20, 2012

**COMMENTS:**

**BECKMAN ENVIRONMENTAL SERVICES CO, INC.**  
**1991 PLANS - SPECIFICATIONS**  
PLANT NO. 1      20,000 GPD  
    40 HOMES  
PLANT NO. 2      4,000 GPD  
    10 HOMES

**ALLOW 400 GPD PER HOUSEHOLD**

**45 HOMES OCCUPIED**  
**45 X \$45.43 = \$2,044.35**

**5 VACANT HOMES**

**THELMA WASTE CONTROL, INC.**  
**P.O. BOX 327**  
**THELMA, KENTUCKY 41260**  
**(606) 789-1483**

**BOARD OF DIRECTORS**

HARRY N. FRISBY	ELECTED SEPTEMBER 2009	TERM EXPIRES 2014
BURDETTE KRETZER	ELECTED SEPTEMBER 2011	TERM EXPIRES 2016
TOM MURPHY	ELECTED SEPTEMBER 2009	TERM EXPIRES 2014
SANDRA SPARKS	ELECTED SEPTEMBER 2008	TERM EXPIRES 2013
EDWARD THOMASSON	ELECTED SEPTEMBER 2011	TERM EXPIRES 2016

**ALTERNATE DIRECTORS:**

VALARIE BLAIR	ELECTED SEPTEMBER 2011	TERM EXPIRES 2016
FRANK MIMS	ELECTED SEPTEMBER 2009	TERM EXPIRES 2014

**EFFECTIVE SEPTEMBER 15, 2011**

**OFFICERS ELECTED SEPTEMBER 15, 2011**

<b>PRESIDENT</b>	<b>EDWARD THOMASSON</b>	<b>PHONE NO. 789-1483</b>
<b>VICE PRESIDENT</b>	<b>SANDRA SPARKS</b>	<b>PHONE NO. 789-6957</b>
<b>SECRETARY</b>	<b>LUCILLE THOMASSON</b>	<b>PHONE NO. 789-1483</b>
<b>TREASURER</b>	<b>LUCILLE THOMASSON</b>	<b>PHONE NO. 789-1483</b>

**THELMA WASTE CONTROL, INC.**  
**P.O. BOX 327**  
**THELMA, KENTUCKY 41260**  
**(606) 789-1483**

FEBRUARY 20, 2012

**COMMENTS:**

**BECKMAN ENVIRONMENTAL SERVICES CO, INC.**

**1991 PLANS - SPECIFICATIONS**

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**5 VACANT HOMES**