



Aaron R. Davis, Attorney
Stephanie L. Davis, Attorney
165 Evergreen Lane
Pikeville, KY 41501
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thedavisfirmpllc.com

January 26, 2016

RECEIVED

JAN 27 2016

PUBLIC SERVICE
COMMISSION

Jeff Derouen
Executive Director
KY Public Service Commission
PO Box 615
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

RE: In the Matter of: Application for Alternative Rate
Filing of Bush Gardens Enterprises, LLC
PSC Case No. 2015-00306

Mr. Derouen,

Enclosed please find for filing with the Commission in the above-referenced case an original and five (5) copies of Bush Gardens' Supplemental Information for Answers to Attorney General's Initial Requests for Information. "Exhibit 1" in this supplement is "Exhibit 9" in Bush Gardens' Answers to Commission Staff's Request for Information, filed with the Commission on December 4, 2015.

Do not hesitate to contact me if you have any questions.

Respectfully Submitted,



Aaron R. Davis

Enclosure

Aaron R. Davis
adavis@thedavisfirmpllc.com

Stephanie L. Davis
sdavis@thedavisfirmpllc.com

RECEIVED

JAN 27 2016

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

APPLICATION OF BUSH GARDENS
ENTERPRISES, LLC FOR APPROVAL OF
INITIAL SEWER RATES PURSUANT TO THE
ALTERNATIVE RATE FILING PROCEDURES
FOR SMALL UTILITIES AND TARIFF

CASE NO. 2015-00306

SUPPLEMENTAL INFORMATION FOR ANSWERS TO ATTORNEY GENERAL'S
INITIAL REQUESTS FOR INFORMATION

To: Jeff Derouen, Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

Comes now Bush Gardens Enterprises, LLC ("Bush Gardens"), by counsel, and pursuant to instruction four (4) on the Attorney General's Initial Requests for Information (receiving or generating additional information), hereby provides supplemental information for its previous Answers to the Attorney General's Initial Request for Information:

QUESTION:

3. Please reference the Application generally.
 - a. Please explain if the sewage treatment plant in question has been in compliance with all applicable laws and regulations?
 - b. Explain whether the operators of the Bush Garden Subdivision sewage treatment plant have been investigated or cited for any issues?
 - c. Where does the sewage plant discharge?
 - d. Where is the sewage plant permitted to discharge?

ORIGINAL ANSWER TO NO. 3a: The plant in question has been cited for non-compliance. This citing occurred about two years ago.

SUPPLEMENTAL ANSWER TO 3a: The Bush Gardens treatment plant has been cited multiple times for noncompliance. Please see Bush Gardens notice of violations attached as Exhibit 1. We have requested all notice of violations from the Division of Water. Exhibit 1 is all that we have received to date.

Witnesses prepared to Answer: Linda Bowling and David Bowling

ORIGINAL ANSWER TO NO. 3b: The “Operator” used broadly is Bush Gardens. Bush Gardens owner is Linda Bowling. Linda Bowling has never been investigated or cited for any issues. Mike Conley is the operator of Bush Garden Subdivision in the more strict sense of operating the sewage treatment plant. We do not know if Mike Conley has ever been investigated or cited for any issues.

SUPPLEMENTAL ANSWER TO 3b: The “Operator” used broadly is Bush Gardens. Bush Gardens owner is Linda Bowling. Linda Bowling has been cited for noncompliance issues with Bush Gardens as shown on the attached, Exhibit 1 and the supplemental answer to question 3a above. Mike Conley is the operator of Bush Garden Subdivision in the more strict sense of operating the sewage treatment plant. We do not know if Mike Conley has ever been investigated or cited for any issues.

ORIGINAL ANSWER TO NO. 3c: The sewage plant discharges in Toms Creek.

There is no supplemental answer to Original Answer to No. 3c.

Witnesses prepared to Answer: Linda Bowling and David Bowling

ORIGINAL ANSWER TO NO. 3d: The sewage plant is permitted to discharge in Toms Creek.

There is no supplemental answer to Original Answer to No. 3d.

Witnesses prepared to Answer: Linda Bowling and David Bowling

EXHIBIT #1

STEVEN L. BESHEAR
GOVERNOR



LEONARD K. PETERS
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water
233 Birch St
Hazard, KY 41701-2115
www.kentucky.gov

June 25, 2015

Certified No. 7009 2820 0003 6159 0189
Return Receipt Requested

Bush Gardens Subd
Attn: Linda Bowling
PO Box 248
Hagerhill, KY 41222

Re: Notice of Violation
AI ID: 34976
AI Name: Bush Gardens Subd
Activity ID: ENV20150001
Permit No. KY0103853
Johnson County, KY

Dear Bush Gardens Subd:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

This NOV is being issued as a result of an inspection conducted on 04/13/2015.

All laboratory analyses required to demonstrate compliance with the conditions of this permit shall be performed by a Division of Water (DOW) certified general wastewater laboratory and field-only laboratory. Compliance with this requirement shall commence on January 1, 2015 for analyses performed by a general wastewater laboratory and January 1, 2016 for a field-only wastewater laboratories. The deadline for submitting a completed application is October 1, 2014 for a general wastewater laboratory and October 1, 2015 for a field-only wastewater laboratory.

For information or questions regarding the certification process, contact Frank Hall at 502-564-3410 or email at DOWLabCertification@ky.gov. Required documents can be found at <http://water.ky.gov/permitting/Pages/WasteWaterCertification.aspx>.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 606-435-6022.

Sincerely,

A handwritten signature in black ink that reads "Joshua George".

Joshua George,

COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Water

NOTICE OF VIOLATION

To: Bush Gardens Subd
Attn: Linda Bowling
PO Box 248
Hagerhill, KY 41222

AI Name: Bush Gardens Subd AI ID: 34976 Activity ID: ENV20150001
Discovery ID: CIN20150001 County: Johnson
Enforcement Case ID:
Date(s) Violation(s) Observed: 04/13/2015

This is to advise that you are in violation of the provisions cited below:

1 **Violation Description for Subject Item GINS0000000001 Wasterwater/Inspection/Field Staff/WWTP(KPDES Individual):**

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 which 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 2(1)] As in [40 C.F.R. 122.41(e)].

Description of Non Compliance:

The facility is not being properly operated and maintained as required. At the time of the inspection the facility was operating. The aeration basin was aerating. The basin appeared light in color and appeared to be underloaded. The clarifier was being aerated due to an air line leak leading to the skimmer. The clarifier was not able to function properly due to the mixing caused by the air leak. Solids were settling out in the chlorine contact chamber. The discharge pipe for the plant has been broken. The plant now discharges onto the ground near the plant. The effluent is ponding and causing the area to stand in water. Nearby residents spoke with us during the inspection and expressed concerns of odor and disease transmission through mosquitoes and insects. The KPDES permit indicates the facility should discharge directly into Tom's Creek. The effluent pipe should be repaired to alleviate these issues.

The remedial measure(s), and date(s) to be completed by are as follows:

The permittee must, at all times, properly operate & maintain the facility. The facility must be operated so that the effluent meets all KPDES permit limits. The effluent shall be discharged to the tributary named in the permit and should not be discharged onto the ground. With proper approval(s) from the Division of Water, upgrade/update the facility in order to meet the regulatory requirements and facility permit conditions. By July 31, 2015, the permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Failure to comply with the remedial measures or repeated violations of this requirement may subject you and/or your company to an immediate referral to the Division of Enforcement. [401 KAR 5:065 Section 2(1)]

Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance with remedial measures and their deadlines does not provide exemption from liability for violations during the period of remediation, nor prevent additional remedial measures from being required.

If you have questions or need further information, write or call the undersigned:

Division of Water
Hazard Regional Office
233 Birch St
Hazard, KY 41701-2115
606-435-6022 (8:00 AM – 4:30 PM)
Joshua George, Environmental Inspector

Joshua George

Issued By:

Joshua George, Environmental Inspector
Date: June 25, 2015

Damon D White

Issued By:

Damon White, Environmental Control Supervisor
Date: June 25, 2015

How Delivered: Certified Mail Certified/Registered # 7009 2820 0003 6159 0189

Energy and Environment Cabinet
Department for Environmental Protection
Division of Water
Wastewater Inspection Report

AI ID: 34976 **AI Type:** RESIDENCE- Subdivision (nec)
AI Name: Bush Gardens Subd
AI Address: 1559 Sitka Rd
City: Sitka, **State:** Kentucky **Zip:** 41255
County: Johnson **Regional Office:** Hazard Regional Office
Latitude: 37.888111 **Longitude:** -82.822194
Site Contact: Mike Conley
Title: Operator **Phone #:**
Inspection Type: WW-Routine-Min-Nmun **Activity #:** CIN20150001
Incident IDs:
Inspection Start Date: April 13, 2015 **Time:** 10:45 AM **End Date:** April 13, 2015 **Time:** 11:30 AM
Site/Permit ID: KY0103853

Lead DEP Investigator: Joshua George
Other DEP Investigators:
External Investigators:
Persons Interviewed: Mike Conley

General Comments: An inspection was conducted at the Bush Gardens WWTP. The facility is a 0.008 MGD extended aeration package treatment plant. Mike Conley, the certified operator, was not present at the time of the inspection. At the time of the inspection the facility was operating. The aeration basin was aerating. The basin appeared light in color and appeared to be underloaded. The clarifier was being aerated due to an air line leak leading to the skimmer. The clarifier was not able to function properly due to the mixing caused by the air leak. Solids were settling out in the chlorine contact chamber. Chlorine and de-chlorination tablets were present in the system. The discharge pipe for the plant has been broken. The plant now discharges onto the ground near the plant. The effluent is ponding and causing the area to stand in water. Nearby residents spoke with us during the inspection and expressed concerns of odor and disease transmission through mosquitoes and insects. The KPDES permit indicates the facility should discharge directly into Tom's Creek. The effluent pipe should be repaired to alleviate these issues. No DMR excursions were noted for the past two quarters. The KPDES permit was reviewed and is valid through December 31, 2017.-

Overall Compliance Status: Out of Compliance- NOV

Investigation Results

SI: AIO034976

SI Description:

Inspector Comment:

SI: GINS1 KPDES Individual

SI Description: Wasterwater/Inspection/Field Staff/WWTP

Inspector Comment:

Requirement: Does the facility hold the proper KPDES permit?. [401 KAR 5:055 Section 2]

Compliance Status: C-No Violations observed

Comment: The KPDES permit was reviewed and is valid through December 31, 2017.

Requirement: Is the facility being operated under the supervision of a properly certified operator? [401 KAR 5:010 Section 1]. [401 KAR 5:010 Section 1]

Compliance Status: C-No Violations observed

Comment: Mike Conley is the certified Class III operator, #12880.

Requirement: Is the collection system under the primary responsibility of an individual who holds an active collection system certification at the level appropriate for the size of the treatment facility receiving the waste? [401 KAR 5:010 Section 2]. [401 KAR 5:010 Section 2]

Compliance Status: N-Not Applicable

Comment:

Requirement: Is the facility being properly operated and maintained as specified in regulation 5:065? This includes:
(a) proper operation and maintenance of all facilities, systems of treatment and control, and related appurtenances which are installed or used by the permittee to achieve compliance with permit conditions;
(b) proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures;
(c) this provision also requires the operation of back-up or auxiliary facilities or similar systems which 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 2(1)]. [401 KAR 5:065 Section 2(1)]

Compliance Status: V-Out of Compliance-NOV

Comment: The facility is not being properly operated and maintained as required. At the time of the inspection the facility was operating. The aeration basin was aerating. The basin appeared light in color and appeared to be underloaded. The clarifier was being aerated due to an air line leak leading to the skimmer. The clarifier was not able to function properly due to the mixing caused by the air leak. Solids were settling out in the chlorine contact chamber. The discharge pipe for the plant has been broken. The plant now discharges onto the ground near the plant. The effluent is ponding and causing the area to stand in water. Nearby residents spoke with us during the inspection and expressed concerns of odor and disease transmission through mosquitoes and insects. The KPDES permit indicates the facility should discharge directly into Tom's Creek. The effluent pipe should be repaired to alleviate these issues.

Requirement: Are the disinfection unit(s) maintained and operated properly to allow for compliance with permit conditions? [401 KAR 5:005 Section 11]. [401 KAR 5:005 Section 11]

Compliance Status: C-No Violations observed

Comment: Solids were settling out in the chlorine contact chamber. Chlorine and de-chlorination tablets were present in the system.

Requirement: Have pollutants entered the waters of the Commonwealth? [KRS 224.70-110]. [KRS 224.70-110]

Compliance Status: C-No Violations observed

Comment: There was no evidence that pollutants had entered the receiving stream.

Requirement: Have surface waters been aesthetically or otherwise degraded? [401 KAR 10:031 Section 2]. [401 KAR 10:031 Section 2]

Compliance Status: C-No Violations observed

Comment: No visible degradation was observed in the receiving stream. The plant effluent is ponding around the plant.

Documentation

- | | |
|--|--|
| <input checked="" type="checkbox"/> Photos taken | <input type="checkbox"/> Record of visual determination of opacity |
| <input type="checkbox"/> Documents obtained from facility | <input type="checkbox"/> Samples taken by DEP |
| <input type="checkbox"/> Samples taken by outside source | <input type="checkbox"/> Regional office instrument readings taken |
| <input type="checkbox"/> Request for Submission of Documents | <input type="checkbox"/> Other documentation |

Inspector:

Joshua George

Date: 06/24/2015

Received By: _____ **Title:** _____ **Date:** _____

Delivery Method: Certified Mail

Certified Mail Number: 7009 2820 0003 6159 0189



STEVEN L. BESHEAR
GOVERNOR

LEONARD K. PETERS
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

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

October 16, 2014

Mr. David L Bowling
Bush Gardens Subd
P.O. Box 248
Hager Hill, Kentucky 41222

RE: Bush Gardens Subd -- 34976
Permit No.: KY0103853
Johnson County, Kentucky
Activity ID: CIN20140003

Dear Mr. David L Bowling :

Attached for your information and records is a copy of the WW CEI-Minor Mun performed at Bush Gardens Subd on October 15, 2014.

The plant was found to be in satisfactory condition at the time of inspection. The plant did have two permit violations during the period reviewed. During the second quarter the plant was out of compliance on TSS and ammonia. All laboratory analyses required to demonstrate compliance with the conditions of this permit shall be performed by a Division of Water (DOW) certified general wastewater laboratory and field-only laboratory. Compliance with this requirement shall commence on January 1, 2015 for analyses performed by a general wastewater laboratory and January 1, 2016 for a field-only wastewater laboratories. The deadline for submitting a completed application is October 1, 2014 for a general wastewater laboratory and October 1, 2015 for a field-only wastewater laboratory.

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

Sincerely,

Lee Pigman
Environmental Inspector
Hazard Regional Office
Division of Water

DLP

Energy and Environment Cabinet
Department for Environmental Protection
Division of Water
Wastewater Inspection Report

AI ID: 34976 **AI Type:** RESIDENCE- Subdivision (nec)
AI Name: Bush Gardens Subd
AI Address: 1559 Sitka Rd
City: Sitka, **State:** Kentucky **Zip:** 41255
County: Johnson **Regional Office:** Hazard Regional Office
Latitude: 37.888111 **Longitude:** -82.822194
Site Contact: Dave & Linda Bowling
Title: Owner **Phone #:**
Inspection Type: WW CEI-Minor Mun **Activity #:** CIN20140003
Incident IDs:
Inspection Start Date: October 15, 2014 **Time:** 01:00 PM **End Date:** October 15, 2014 **Time:** 01:45 PM
Site/Permit ID: KY0103853

Lead DEP Investigator: Lee Pigman
Other DEP Investigators: David Slone; Ronnie Shell
External Investigators:
Persons Interviewed:

General Comments: The plant receives very little flow. The clarifier and the effluent were murky and solids appeared to be passing through the chlorine contact unit. The color of the aeration unit was light but did not appear septic. The DMR review indicated the plant had two permit violations during last year. The facility was out of compliance on BOD and TSS during the second quarter of 2014.
Overall Compliance Status: Out of Comp- Viol documented

Investigation Results

SI: AIOO34976

SI Description:

Inspector Comment:

Requirement: Does the facility hold the proper KPDES permit?. [401 KAR 5:055 Section 2]

Compliance Status: C-No Violations observed

Comment: Permit is valid thru Dec 31 2017

Requirement: Have all required permits been obtained from the Division of Water prior to the construction or modification of the facility? [401 KAR 5:005 Section 1]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the facility being operated under the supervision of a properly certified operator? [401 KAR 5:010 Section 1]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the collection system under the primary responsibility of an individual who holds an active collection system certification at the level appropriate for the size of the treatment facility receiving the waste? [401 KAR 5:010 Section 2]

Compliance Status: N-Not Applicable

Comment: The collection system does not require a certified operator due to the size of the system.

Requirement: Does the permittee retain records of all monitoring information including: the date, exact place, and time of sampling or measurements; the name of the individual who performed the sampling or measurements; the dates and times analyses were performed; the name of the individual who performed the analyses; the analytical techniques

or methods used; the results of the analyses; 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 the period required by the cabinet and at a minimum of at least three (3) years from the date of the sample, measurement, report, or application? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the facility required to prepare and implement a groundwater protection plan (GPP) as specified in regulation 401 KAR 5:037? If yes, does the facility have a GPP? [401 KAR 5:037 Section 3]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the permittee reporting monitoring results to the cabinet at the intervals specified in the permit? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Are the monitoring results reported to the cabinet on a Discharge Monitoring Report (DMR)? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: 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, are the results of this monitoring included in the calculation and reporting of the data submitted in the DMR? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Are the calculations for all limitations which require averaging of measurements utilizing an arithmetic mean unless otherwise specified by the Cabinet in the permit? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the permittee in compliance for the reporting of spills, bypasses, and non-compliance according 401 KAR 5:065 Section 2(1)

Compliance Status: C-No Violations observed

Comment:

Requirement: Did the facility notify the Division of Water by the most rapid means available whenever, by reason of emergency or accident, a spill or discharge occurs which results in pollution of the waters of the Commonwealth? [401 KAR 5:015 Section 2]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the facility being properly operated and maintained as specified in regulation 5:065? This includes:
(a) proper operation and maintenance of all facilities, systems of treatment and control, and related appurtenances which are installed or used by the permittee to achieve compliance with permit conditions;

(b) proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures;

(c) this provision also requires the operation of back-up or auxiliary facilities or similar systems which 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 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Are the disinfection unit(s) maintained and operated properly to allow for compliance with permit conditions? [401 KAR 5:005 Section 11]

Compliance Status: C-No Violations observed

Comment:

Requirement: Does the flow measuring device measure all flow received at the WWTP? For large wastewater facilities (average daily design capacity >50, 000 gpd), is flow measured by an indicating, recording, and totalizing flow measuring device? [401 KAR 5:005 Section 12]

Compliance Status: N-Not Applicable

Comment:

Requirement: Is a source of water provided for cleanup? If potable water is used, is a backflow preventor installed to

protect the water supply? [401 KAR 5:005 Section 10(6)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Has fencing with a lockable gate been installed around the wastewater treatment plant? [401 KAR 5:005 Section 10(7)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Has an all-weather access road been installed to allow access to the wastewater treatment plant? Is the road adequately maintained to allow access to the facility for operation and maintenance activity? [401 KAR 5:005 Section 10(8)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Sewage sludge. Did the facility meet the requirements governing the disposal of sewage sludge from publicly owned treatment works, in accordance with 40 CFR Part 503? [401 KAR 5:065 Section 2(4)]

Compliance Status: N-Not Applicable

Comment:

Requirement: Is the effluent in compliance with KPDES permit limitations? Do the Discharge Monitoring Reports indicate KPDES permit violations? [401 KAR 5:065 Section 2(1)]. [401 KAR 5:065 Section 2(1)]

Compliance Status: D-Out of Compliance-Violations Documented

Comment: The facility has failed to comply with the effluent limitations contained in the permit. The facility was out of compliance on BOD and TSS during the second quarter of 2014.

Requirement: Are samples taken in compliance with the monitoring requirements and taken at the following location(s): nearest accessible point after final treatment, but prior to actual discharge or mixing with receiving waters? Are the samples representative of plant flow? Are flow proportioned samples obtained when required by the KPDES permit? Are grab samples collected according to the KPDES permit requirements? Are composite samples collected and analyzed according to the KPDES permit conditions? Are samples collected according to KPDES permit requirements? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Are the facility sample collection procedures adequate? Are the samples collected in proper containers, preserved, and refrigerated properly? Are all samples analyzed within the allowed holding times? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the facility sampling in accordance with sampling requirements specified for biomonitoring in the KPDES permit conditions? [401 KAR 5:065 Section 2(1)]

Compliance Status: C-No Violations observed

Comment:

Requirement: Have pollutants entered the waters of the Commonwealth? [KRS 224.70-110]

Compliance Status: C-No Violations observed

Comment:

Requirement: Have surface waters been aesthetically or otherwise degraded? [401 KAR 10:031 Section 2]

Compliance Status: C-No Violations observed

Comment:

Requirement: Is the permittee in compliance with all permit conditions? [401 KAR 5:065 Section 2]

Compliance Status: C-No Violations observed

Comment:

Documentation

- | | |
|--|--|
| <input type="checkbox"/> Photos taken | <input type="checkbox"/> Record of visual determination of opacity |
| <input type="checkbox"/> Documents obtained from facility | <input type="checkbox"/> Samples taken by DEP |
| <input type="checkbox"/> Samples taken by outside source | <input type="checkbox"/> Regional office instrument readings taken |
| <input type="checkbox"/> Request for Submission of Documents | <input type="checkbox"/> Other documentation |

Inspector:

Donna Lee Pignone

Date: 11/14/14

Received By: _____ Title: _____ Date: _____

Delivery Method:

Certified Mail Number:

STEVEN L. BESHEAR
GOVERNOR



LEONARD K. PETERS
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF ENFORCEMENT
300 FAIR OAKS LANE
FRANKFORT KENTUCKY 40601
www.kentucky.gov

February 25, 2013

CERTIFIED MAIL No. 7011 3500 0002 9112 6213
Return Receipt Requested

Bush Gardens Subdivision
Linda Bowling
PO Box 248
Hagerhill, KY 41222

Re: Notice of Violation
AI ID: 34976
AI Name: Bush Gardens Subd
Activity ID: ENV20120002
Facility No. KY0103853
Johnson County, KY

Dear Ms. Bowling:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at (502) 564-2150, extension 3230.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle M. Rice".

Michelle M. Rice, Enforcement Specialist
Compliance and Operations Branch

MMR/ra

Enclosure

COMMONWEALTH OF KENTUCKY
ENERGY and ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Enforcement

NOTICE OF VIOLATION

To: Bush Gardens Subdivision
Linda Bowling
PO Box 248
Hagerhill, KY 41222

AI Name: Bush Gardens Subd **AI ID:** 34976 **Activity ID:** ENV20120002
County: Johnson
Facility Number: KY0103853
Date(s) Violation(s) Observed: 12/10/2012

This is to advise that you are in violation of the provisions cited below:

- 1 Violation Description for Subject Item AIOO0000034976():
No person shall, directly or indirectly, throw, drain, run or otherwise discharge into any of the waters of the Commonwealth, or cause, permit or suffer to be thrown, drained, run or otherwise discharged into such waters any pollutant, or any substance that shall cause or contribute to the pollution of the waters of the Commonwealth in contravention of the standards adopted by the cabinet or in contravention of any of the rules, regulations, permits, or orders of the cabinet or in contravention of any of the provisions of this chapter. [KRS 224.70-110]

Description of Non Compliance:

Failing to comply with 401 KAR 5:065, which cites 40 CFR 122.41(a), by failing to comply with the terms and conditions of KPDES Permit No. KY0103853, Outfall 001-1, for Total Ammonia Nitrogen (TAN) during the 1st Quarter (January - March) and the 3rd Quarter (July - September) 2012. The permitted limits for TAN Concentration during the months of November through April are a monthly average of 10 mg/l and a daily maximum of 15 mg/l. The reported result was a monthly average of 14.50 mg/l for the 1st Quarter 2012. The permitted limits for TAN Concentration during the months of May through October are a monthly average of 4 mg/l and a daily maximum of 6 mg/l. The reported results were a monthly average of 6.98 mg/l and a daily maximum of 6.98 mg/l for the 3rd Quarter 2012.

The remedial measure(s), and date(s) to be completed by are as follows:

Bush Gardens Subdivision shall develop and submit a Corrective Action Plan: **Due 4/1/2013**. This plan shall provide a detailed written explanation of reasons for the violation, what is being done to maintain compliance at the facility, and a proposed schedule specifying when the corrective actions are to be completed. The KDEP will continue to monitor your DMRs. [KRS 224.70-110]

- 2 Violation Description for Subject Item AIOO0000034976():
No person shall, directly or indirectly, throw, drain, run or otherwise discharge into any of the waters of the Commonwealth, or cause, permit or suffer to be thrown, drained, run or otherwise discharged into such waters any pollutant, or any substance that shall cause or contribute to the pollution of the waters of the Commonwealth in contravention of the standards adopted by the cabinet or in contravention of any of the rules, regulations, permits, or orders of the cabinet or in contravention of any of the provisions of this chapter. [KRS 224.70-110]

Description of Non Compliance:

Failing to comply with 401 KAR 5:065, which cites 40 CFR 122.41(a), by failing to comply with the terms and conditions of KPDES Permit No. KY0103853, Outfall 001-1, for Total Suspended Solids (TSS) during the 2nd Quarter (April - June) 2012. The permitted limits for TSS Concentration are a 30-day average of 30 mg/l and a maximum weekly average of 45 mg/l. The reported result was a 30-day average of 37 mg/l.

The remedial measure(s), and date(s) to be completed by are as follows:

Bush Gardens Subdivision shall develop and submit a Corrective Action Plan: **Due 4/1/2013**. This plan shall provide a detailed written explanation of reasons for the violation, what is being done to maintain compliance at the facility, and a proposed schedule specifying when the corrective actions are to be completed. The KDEP will continue to monitor your DMRs. [KRS 224.70-110]

3 Violation Description for Subject Item AIOO0000034976():

No person shall, directly or indirectly, throw, drain, run or otherwise discharge into any of the waters of the Commonwealth, or cause, permit or suffer to be thrown, drained, run or otherwise discharged into such waters any pollutant, or any substance that shall cause or contribute to the pollution of the waters of the Commonwealth in contravention of the standards adopted by the cabinet or in contravention of any of the rules, regulations, permits, or orders of the cabinet or in contravention of any of the provisions of this chapter. [KRS 224.70-110]

Description of Non Compliance:

Failing to comply with 401 KAR 5:065, which cites 40 CFR 122.41(a), by failing to comply with the terms and conditions of KPDES Permit No. KY0103853, Outfall 001-1, for E. Coli during the 2nd Quarter (April - June) 2012. The permitted limits for E. Coli Concentration are a 30-day geometric mean of 130 per 100ml and a 7-day geometric mean of 240 per 100ml. The reported results were a 30-day geometric mean of 2420 per 100ml and a 7-day geometric mean of 2420 per 100ml.

The remedial measure(s), and date(s) to be completed by are as follows:

Bush Gardens Subdivision shall develop and submit a Corrective Action Plan: **Due 4/1/2013**. This plan shall provide a detailed written explanation of reasons for the violation, what is being done to maintain compliance at the facility, and a proposed schedule specifying when the corrective actions are to be completed. The KDEP will continue to monitor your DMRs. [KRS 224.70-110]

4 Violation Description for Subject Item AIOO0000034976():

No person shall, directly or indirectly, throw, drain, run or otherwise discharge into any of the waters of the Commonwealth, or cause, permit or suffer to be thrown, drained, run or otherwise discharged into such waters any pollutant, or any substance that shall cause or contribute to the pollution of the waters of the Commonwealth in contravention of the standards adopted by the cabinet or in contravention of any of the rules, regulations, permits, or orders of the cabinet or in contravention of any of the provisions of this chapter. [KRS 224.70-110]

Description of Non Compliance:

Failing to comply with 401 KAR 5:065, which cites 40 CFR 122.41(a), by failing to comply with the terms and conditions of KPDES Permit No. KY0103853, Outfall 001-1, for Biochemical Oxygen Demand (BOD) during the 2nd Quarter (April - June) 2012. The permitted limits for BOD Concentration are a 30-day average of 30 mg/l and a maximum weekly average of 45 mg/l. The reported result was a 30-day average of 42 mg/l.

The remedial measure(s), and date(s) to be completed by are as follows:

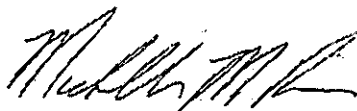
Bush Gardens Subdivision shall develop and submit a Corrective Action Plan: **Due 4/1/2013**. This plan shall provide a detailed written explanation of reasons for the violation, what is being done to maintain compliance at the facility, and a proposed schedule specifying when the corrective actions are to be completed. The KDEP will continue to monitor your DMRs. [KRS 224.70-110]

Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance with remedial measures and their deadlines does not provide exemption from liability for violations during the period of remediation, nor prevent additional remedial measures from being required.

If you have questions or need further information, write or call the undersigned:

Department for Environmental Protection
Division of Enforcement
300 Fair Oaks Lane
Frankfort, KY 40601
502-564-2150 extension 3230 (8:15 AM – 4:15 PM)
Michelle Rice, Enforcement Specialist

Issued By:



Michelle M. Rice
Environmental Enforcement Specialist
Compliance and Operations Branch
Date: February 25, 2013

How Delivered: Certified Mail Certified/Registered # 7011 3500 0002 9112 6213

COMMONWEALTH OF KENTUCKY
ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Water

NOTICE OF VIOLATION

To: Mrs. Linda Bowling
PO Box 230
Hagerhill, KY 41222

AI Name: Bush Gardens Subd AI ID: 34976 Activity ID: ENV20070002
County: Johnson
Enforcement Case ID:
Date(s) Violation(s) Observed: 07/24/2007

This is to advise that you are in violation of the provisions cited below:

1 Violation Description for Subject Item GINS0000000001Wasterwater/Inspection/Field Staff/WWTP(KPDES Individual):

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 which 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)]

Description of Non Compliance:

Skimmer was not operating at the time of inspection. Excessive solids have built up in both the clarifier and disinfection chamber.

The remedial measure(s), and date(s) to be completed by are as follows:

Properly operate and maintain the wastewater treatment facility according to Division of Water regulations and conditions of the KPDES permit. Come into compliance immediately upon receipt of this notice. [401 KAR 5:065 Section 1(5)]

2 Violation Description for Subject Item GINS0000000001Wasterwater/Inspection/Field Staff/WWTP(KPDES Individual):

All wastewater treatment plants shall have a disinfection process which meets the following requirements: An ultraviolet disinfection system designed to treat the anticipated peak hourly flow; 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 a chlorination system with a manually controlled feed system and a flow equalization basin designed to eliminate the diurnal flow variations. [401 KAR 5:005 Section 11(1)]

Description of Non Compliance:

Excessive amount of solids have built up inside the disinfection unit.

The remedial measure(s), and date(s) to be completed by are as follows:

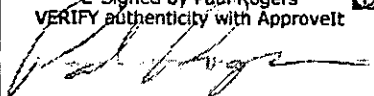
Properly maintain the disinfection unit serving this wastewater treatment facility according to Division of Water regulations and conditions of the KPDES permit. Come into compliance immediately upon receipt of this notice. [401 KAR 5:005 Section 11(1)]

Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance with remedial measures and their deadlines does not provide exemption from liability for violations during the period of remediation, nor prevent additional remedial measures from being required.

If you have questions or need further information, write or call the undersigned:

Division of Water
Hazard Regional Office
233 Birch St
Hazard, KY 41701
606 435-6022 (8:00 AM - 4:30 PM)
Paul Rogers, Environmental Inspector

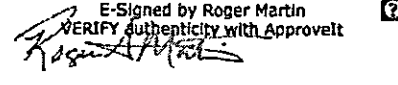
E-Signed by Paul Rogers
VERIFY authenticity with ApproveIt



Issued By:

Paul Rogers, Environmental Inspector
Date: July 24, 2007

E-Signed by Roger Martin
VERIFY authenticity with ApproveIt



Issued By:

Roger Martin, Environmental Control Supervisor
Date: July 24, 2007

How Delivered: Certified Letter

Certified/Registered # 7000 1670 0008 4231 0700

Environmental and Public Protection Cabinet
Department for Environmental Protection
Division of Water
Wastewater Inspection Report

AI ID: 34976 **AI Type:** RESIDENCE- Subdivision (nec)
AI Name: Bush Gardens Subd
AI Address: 1559 Sitka Rd
City: Sitka, **State:** Kentucky **Zip:** 41255
County: Johnson **Regional Office:** Hazard Regional Office
Latitude: 37.888111 **Longitude:** -82.822194
Site Contact: Linda Bowling
Title: Operator **Phone #:** 606 789-6800
Inspection Type: WW Routine-Min Nmun **Activity #:** CIN20070002
Incident IDs:
Inspection Start Date: July 24, 2007 **Time:** 08:30 AM **End Date:** July 24, 2007 **Time:** 09:15 AM
Site/Permit ID: KY0103853

Lead DEP Investigator: Paul Rogers
Other DEP Investigators:
External Investigators:
Persons Interviewed:

General Comments: Routine inspection conducted on 07/24/2007 on the wastewater treatment plant serving the Bush Gardens subdivision on Tobacco Road near Sitka, in Johnson County. The facility now has a properly certified operator in Linda Bowling. The facility was in operation at the time of inspection. Fencing was in place around the facility. Aeration basin had good coloration. Chlorine tablets were present in the chlorine tubes. However, the facility had the following problems at the time of inspection. The skimmer was not operating, allowing an excessive amount of solids to build up in the clarifier. Excessive solids were also observed throughout the disinfection chamber. Weeds were beginning to grow inside the disinfection chamber and inside the aeration basin. A notice of violation will be issued.
Overall Compliance Status: Out of Compliance- NOV

Investigation Results

SI: AIO034976

SI: GINSI Routine inspection conducted on 07/24/2007 on the wastewater treatment plant serving the Bush Gardens subdivision on Tobacco Road near Sitka, in Johnson County. The facility now has a properly certified operator in Linda Bowling. The facility was in operation at the time of inspection. Fencing was in place around the facility. Aeration basin had good coloration. Chlorine tablets were present in the chlorine tubes. However, the facility had the following problems at the time of inspection. The skimmer was not operating, allowing an excessive amount of solids to build up in the clarifier. Excessive solids were also observed throughout the disinfection chamber. Weeds were beginning to grow inside the disinfection chamber and inside the aeration basin. A notice of violation will be issued.

Requirement: R/OC (1) - Is the facility being operated under the supervision of a properly certified operator?. [401 KAR 5:010 Section 2(1)]

Compliance Status: No Violations observed

Comment: Linda Bowling is the certified operator for this facility.

Requirement: R/OM (1) - Is the facility being properly operated and maintained as specified in regulation 5:065?

This includes:

- (a) proper operation and maintenance of all facilities, systems of treatment and control, and related appurtenances which are installed or used by the permittee to achieve compliance with permit conditions;
 - (b) proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance
-

procedures;

(c) this provision also requires the

operation of back-up or auxiliary facilities or similar systems which 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)]

Compliance Status: Out of Compliance-NOV

Comment: Skimmer was not operating at the time of inspection. Excessived solids have built up in both the clarifier and disinfection chamber.

Requirement: R/OM (2) - Are the disinfection unit(s) maintained and operated properly to allow for compliance with permit conditions? . [401 KAR 5:005 Section .11(1)]

Compliance Status: Out of Compliance-NOV

Comment: Excessive amount of soilds have built up inside the disinfection unit.

Requirement: R/DE (1) - Is the effluent causing degradation of the waters of the Commonwealth 401 KAR 5:031 Section 2 (1) (a, b, c, & d). [401 KAR 5:031 Section 2]

Compliance Status: No Violations observed

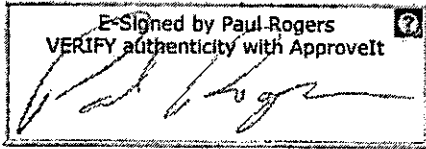
Comment: Effluent appeared clear and did not have an objectionable odor.

Documentation

- Photos taken
- Documents obtained from facility
- Samples taken by outside source
- Request for Submission of Documents

- Record of visual determination of opacity
- Samples taken by DEP
- Regional office instrument readings taken
- Other documentation

Inspector:



Date: 7/24/2007

Received By: _____ **Title:** _____ **Date:** _____

Delivery Method: Certified Letter

Certified Mail Number: 7000 1670 0008 4231 0700



ERNIE FLETCHER
GOVERNOR

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

TERESA J. HILL
SECRETARY

Division of Water
233 Birch St
Hazard, KY 41701
www.kentucky.gov

April 20, 2007

Certified No. 7000 1670 0008 4231 0762
Return Receipt Requested

Mr. David Bowling
PO Box 230
Hagerhill, KY 41222


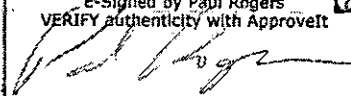
Re: Notice of Violation
AI ID: 34976
AI Name: Bush Gardens Subd
Activity ID: ENV20070001
Permit No. KY0103853
Johnson County, KY

Dear Mr. David Bowling:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Due to the history of this facility, this issue has been referred to the Division of Enforcement. Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 606 435-6022

Sincerely,

E-Signed by Paul Rogers
VERIFY authenticity with ApproveIt 


Paul Rogers,
Environmental Inspector
Division of Water

Enclosure

ERNIE FLETCHER
GOVERNOR



LAJUANA S. WILCHER
SECRETARY

COMMONWEALTH OF KENTUCKY
ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
HAZARD REGIONAL OFFICE
233 BIRCH STREET STE 1 & 2
HAZARD, KY 41701-2179
Phone (606) 435-6022
Fax (606) 435-6025

February 14, 2005

Mr. Dave Bowling
P. O. Box 230
Hagar Hill, KY 41222

Re: Bush Gardens
Routine
KPDES # KY0103853

Dear Mr. Bowling:

A routine inspection was conducted on the wastewater treatment plant serving the above referenced facility on February 14, 2005. As a result of that inspection and a review of the facility files, the following problems were found which need your attention.

- The facility was not operating at the time of the inspection.

If you have any questions concerning the inspection report, please contact this office at (606) 435-6022.

Sincerely

A handwritten signature in cursive script that reads "Denver Lee Pigman".

Denver Lee Pigman, Inspector III
Hazard Regional Office
Division of Water

DLP
Enclosures
C Central Office



Environmental and Public Protection Cabinet
Department for Environmental Protection
Division of Water
Wastewater Inspection Report

AI ID: 34976 **AI Type:** RESIDENCE- Subdivision (nec)

AI Name: Bush Gardens Subd

AI Address: KY 1559

City: Sitka, **State:** Kentucky **Zip:** 41255

County: Johnson **Regional Office:** Hazard Regional Office

Latitude: 37.888111 **Longitude:** -82.822194

Site Contact:

Title: **Phone #:**

Inspection Type: WW Routine - Minor Non-municipal

Activity #: CIN20030002

Incident IDs:

Inspection Start Date: February 7, 2005 **Time:** 12:00 AM **End Date:** February 7, 2005 **Time:** 12:00 AM

Site/Permit ID: KY0103853

Lead DEP Investigator: Lee Pigman

Other DEP Investigators:

External Investigators:

Persons Interviewed:

General Comments: The facility was not operating at the time of the inspection.

Overall Compliance Status: Out of Comp- LOW

Investigation Results

SI: AIO034976

SI: GINSI

Requirement: C/A (2) - Have all required permits been obtained from the Division of Water prior to the construction, modification, or operation of the facility? . [401 KAR 5:005 Section 1]

Compliance Status: No Violations observed

Comment:

Requirement: R/OC (1) - Is the facility being operated under the supervision of a properly certified operator?. [401 KAR 5:010 Section 2(1)]

Compliance Status: Not Evaluated

Comment:

Requirement: R/OM (1) - Is the facility being properly operated and maintained as specified in regulation 5:065? This includes:
(a) proper operation and maintenance of all facilities, systems of treatment and control, and related appurtenances which are installed or used by the permittee to achieve compliance with permit conditions;
(b) proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures;
(c) this provision also requires the operation of back-up or auxiliary facilities or similar systems which 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)]

Compliance Status: Out of Comp-LOW non-recurrent Adm. or O&M

Comment: The facility was not operating at the time of the inspection. The facility is to be properly maintained and operated in accordance with permit conditions.

Requirement: R/OM (2) - Are the disinfection unit(s) maintained and operated properly to allow for compliance with permit conditions? . [401 KAR 5:005 Section 11(1)]

Compliance Status: Out of Comp-LOW non-recurrent Adm. or O&M

Comment: At the time of the inspection no chlorination was being provided.

Requirement: R/DE (1) - Is the effluent causing degradation of the waters of the Commonwealth 401 KAR 5:031 Section 2 (1) (a, b, c, & d). [401 KAR 5:031 Section 2]

Compliance Status: Out of Comp-LOW non-recurrent Adm. or O&M

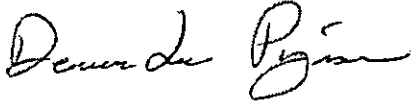
Comment: Failure to meet permit conditions.

Documentation

- Photos taken
- Documents obtained from facility
- Samples taken by outside source
- Request for Submission of Documents

- Record of visual determination of opacity
- Samples taken by DEP
- Regional office instrument readings taken
- Other documentation

Inspector:



Date: 2/7/05

Received By: _____ **Title:** _____ **Date:** _____

Delivery Method:

Certified Mail Number:

CERTIFICATION

I, LINDA BOWLING, do hereby verify the contents of the above Complaint are true and correct to the best of my knowledge, information, and belief formed after a reasonable inquiry.


LINDA BOWLING

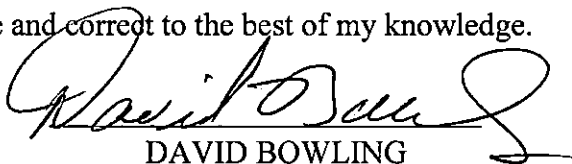
STATE OF KENTUCKY
COUNTY OF PIKE

Subscribed and sworn to before me by LINDA BOWLING on this 26th
day of January, 2016.

MY COMMISSION EXPIRES: 12/5/18


NOTARY PUBLIC

I, DAVID BOWLING, do hereby verify the contents of the above Complaint are true and correct to the best of my knowledge.


DAVID BOWLING

STATE OF KENTUCKY
COUNTY OF PIKE

Subscribed and sworn to before me by DAVID BOWLING on this 26th
day of January, 2016.

MY COMMISSION EXPIRES: 12/5/18


NOTARY PUBLIC

Respectfully submitted,



Aaron R. Davis, KBA #96155

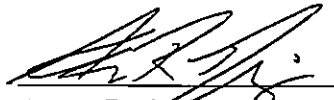
Member of The Davis Firm, PLLC
Attorneys for Bush Gardens Enterprises, LLC
165 Evergreen Lane
Pikeville, KY 41501
Office: 606-432-3641
Cell: 606-899-1259
adavis@thedavisfirmpllc.com

Certificate of Service and Filing

Counsel certifies that an original and one copy of the foregoing were served and filed by First Class U.S. Mail, postage pre-paid, to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Hon. Andy Beshear, Attorney General
Hon. Angela M. Goad
Hon. Gregory T. Dutton
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

This 26th day of January, 2016.


Aaron R. Davis