

BEFORE THE PUBLIC SERVICE COMMISSION  
COMMONWEALTH OF KENTUCKY

RECEIVED

FEB 19 2007

PUBLIC SERVICE  
COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE CONDITION )  
AND MANAGEMENT OF APPALACHIAN )  
WASTE CONTROL, INC. )

NO. 2006-00569

**STATEMENT OF THE PRESTONSBURG CITY'S UTILITIES  
COMMISSION IN SUPPORT OF THE APPOINTMENT OF  
AN OPERATOR**

I, David Ellis, duly sworn, state that I am Superintendent of the Prestonsburg City's Utilities Commission (hereinafter the "Utilities Commission") and make the following statement on its behalf in support of the appointment of the Utilities Commission as the operator pursuant to the Temporary Injunction Order Appointing A Temporary Receiver by the Franklin Circuit Court in Civil Action No. 05-CI-1007, Division I.

1. The Utilities Commission is a municipally owned utility and is managed by its Board of Commissioners pursuant to KRS 58.010, et. seq.
2. The Utilities Commission maintains and operates a wastewater collection system within and outside the City of Prestonsburg and a wastewater treatment plant in Prestonsburg, Kentucky.
3. As of February 15, 2007, the Utilities Commission served 1,992 residential customers and 594 commercial customers, through sixty-four miles of collector lines with fifty-two sewage lift stations. The wastewater treatment plant has the capacity to treat nine hundred ninety thousand gallons per day. As of February 15, 2007, the plant was operating at approximately five hundred eighty thousand gallons per day of wastewater flow during dry weather conditions.
4. The Utilities Commission's wastewater treatment plant is operated by persons certified as operators of a Class II wastewater treatment plant as set out in 401 KAR 5:010.
5. The Utilities Commission is financially sound and has adequate operating capital to conduct its operations and operate the five (5) wastewater treatment plants in this matter.

6. The Utilities Commission is currently engaged in substantive discussions with the Kentucky Environmental and Public Protection Cabinet ("Cabinet") regarding the terms and conditions of its appointment as the operator by the Cabinet to be approved by the Franklin Circuit Court.

PRESTONSBURG CITY'S UTILITIES  
COMMISSION

BY: 

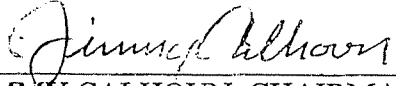
David M. Ellis, Superintendent  
2560 South Lake Drive  
Prestonsburg, Kentucky 41653

Subscribed and sworn before me this 16<sup>TH</sup> day of FEBRUARY, 2007.

My Commission expires: 9/25/2009.

NOTARY PUBLIC, STATE AT LARGE

ATTEST:

  
JIMMY CALHOUN, CHAIRMAN OF  
THE PRESTONSBURG CITY'S  
UTILITIES COMMISSION

BY: 

KIPLEY J. McNALLY, ESQ.  
KIPLEY J. McNALLY, PLC  
2527 Nelson Miller Parkway, Suite 104  
Louisville, Kentucky 40223  
502/245-61433

COUNSEL FOR THE PRESTONSBURG  
CITY'S UTILITIES COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION  
CASE NO. 2006-00569

IN RE: AN INVESTIGATION INTO THE CONDITION AND  
MANAGEMENT OF APPALACHIAN WASTE  
CONTROL, INC.

**THE CABINET'S PREHEARING  
INVESTIGATION MEMORANDUM**

**RECEIVED**

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BEFORE THE PUBLIC SERVICE COMMISSION  
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IN RE: AN INVESTIGATION INTO THE CONDITION AND  
MANAGEMENT OF APPALACHIAN WASTE  
CONTROL, INC.

**THE CABINET'S PREHEARING  
INVESTIGATION MEMORANDUM**

\*\*\*\*\*

Comes now the Environmental and Public Protection Cabinet (the "Cabinet"), by and through counsel, hereby submits its Prehearing Investigation Memorandum, and respectfully requests that the Public Service Commission (the "PSC") find the wastewater treatment plants at issue "abandoned" pursuant to KRS 278.021, justifying the appointment of a receiver. Mr. Gary Keith Fairchild was doing business under the name Appalachian Waste Control. Ultimately the plants were taken over by Mr. Lance Bowling doing business under the name East Kentucky Waste Control. In addition to the degradation of the waters of the Commonwealth and the public health hazards associated with untreated sewage, the parties have apparently failed to properly transfer ownership of the wastewater treatment plants as required by the PSC.

**STATEMENT OF FACTS**

At issue is the operation and maintenance of five wastewater treatment plants located in Johnson County, Kentucky, namely Paradise Valley, Preston Estates, Richmond Hills Estates,

Neal Price, and Burkeshire Development. The Cabinet's facts on the five wastewater treatment plants at issue are as follows:

**BURKESHIRE DEVELOPMENT SUBDIVISION: (See Appendix A)**

Burkeshire Development Subdivision, AI 2326, DOW 050031  
2039 Burkeshire Landing, Staffordsville, KY 41256  
KPDES Permit No. KY 0102687 discharging to Left Fork Rockhouse Creek at mile point 0.05.

Permit issued to Michael Burkett, Burkeshire Development, 517 F.M. Stafford Ave., Paintsville, KY 41240 on October 6, 1998

Change of ownership submitted by Keith Fairchild d.b.a. Appalachian Waste Control (AWC), 2656 Route 2039, Hager Hill, KY 41222, on January 25, 1999

Permit transferred to Keith Fairchild d.b.a. AWC on May 3, 1999

Letter submitted by Keith Fairchild on February 13, 2002 giving away all treatment plants

Permit transferred to Lance Bowling d.b.a. East Kentucky Waste Control (EKWC), 153 George Branch, East Point, KY 41216, on February 27, 2002

DOW issued letter to Lance Bowling stating permit will be issued for shorter period of time

Permit reissued to Lance Bowling d.b.a. EKWC

Letter authorizing all DMRs to go to McCoy & McCoy issued 2/26/04

Verified Complaint filed in July of 2005 (see appendix F)

Larry Stambaugh, Certification Number 13665, P.O. Box 916, Staffordsville, KY 41256, (606) 789-1147, took over operation of plant in December 2005

Permit expired February 28, 2006

Larry Stambaugh resigns as operator June 30, 2006

**NEAL PRICE SUBDIVISION: (See Appendix B)**

Neal Price Subdivision, AI 2392, DOW 050135

Price Drive, Thelma, KY 41260

KPDES Permit No. KY 0097225 discharging to an unnamed tributary at mile point 0.23 to Levisa Fork at mile point 59.83

Permit issued to Gary Keith Fairchild d.b.a. AWC on January 26, 1993

Change of Ownership submitted February 23, 2003

Permit transferred to Lance Bowling d.b.a. EKWC on February 27, 2002

Verified Complaint filed in July of 2005 (see appendix F)

Larry Stambaugh, Certification Number 13665, took over operation of plant in December 2005

Permit expired December 31, 2005

Larry Stambaugh resigns as operator June 30, 2006

**PARADISE VILLAGE (VALLEY) SUBDIVISION: (See Appendix C)**

\* This subdivision was described as both Paradise "Village" and "Valley" in the KPDES permits.\*

Paradise Village Subdivision, AI 2396, DOW 050023

KY 1428, Hager Hill, KY 41222

KPDES Permit No. KY 0076686 discharging to an unnamed tributary of Burnt Cabin Branch

According to an Order filed with the PSC on October 13, 1983:

...the plant was constructed in 1971 by Wayne T. Morgan on land owned by Paul Pelphrey... Wayne T. Morgan owns and operates the plant until his death in 1979... The Pelphreys are deemed the responsible party as the plant is on their land... Permit issued to Mr. Pelphrey d.b.a. Suburban Sewage Treatment, Inc., Route #11, Depot Road, Paintsville, KY 41240, in 1980.

Report filed by PSC Utility Investigator October 13, 1983

Referral for legal action filed October 13, 1983

Order with PSC and Suburban Sewage Treatment, Inc. filed October 13, 1983

Memo regarding request for legal action dated November 21, 1983

PSC Hearing Schedules for April and June 1984

Administrative Complaint filed by Cabinet against Mr. Pelphrey June 11, 1984

Administrative Summons and Pretrial Conference Setting filed June 11, 1984

Memo regarding Administrative Complaint dated June 13, 1984

Memo regarding issuance of plumbing permits dated June 20, 1984 and July 27, 1984

Dewey Bocook files for incorporation of Paradise Village on July 31, 1984

Amended Administrative Complaint filed August 8, 1984

Memo regarding incorporation of Paradise Village dated September 4, 1984

Formal Hearing with Cabinet held on May 6, 1985

Order scheduling formal Hearing filed September 10, 1984

Order granting Formal Hearing filed October 10, 1984

Memo from Cabinet regarding depositions dated October 26, 1984

Settlement offer from Cabinet dated January 10, 1985

Order rescheduling trial filed January 13, 1985

Administrative summons filed February 5, 1985

Settlement offer from Suburban Sewage, Inc. dated February 11, 1985

Letter awaiting Hearing Officer's Report dated August 12, 1985

Sliding Scale settlement offered by Cabinet on September 20, 1985

Verified Complaint filed by Cabinet on May 15, 1986

Memo regarding progress reports dated June 15, 1986

Hearing Officer's Report filed July 17, 1986

Order with Cabinet and the Pelphreys filed August 20, 1986

Ownership transferred to Bacook Engineering Company, 419 Broadway, Paintsville, KY 41240

Permit issued to Dewey Bacook on September 19, 1987

Memo regarding Enforcement Update dated January 1, 1988

Judgment filed against the Pelphreys on July 26, 1989

Settlement offer from Suburban Sewage, Inc. received September 18, 1989

Notice of Appeal filed by Petitioner, Justene Pelphry, on December 6, 1991  
Permit issued to Gary Keith Fairchild d.b.a. AWC on October 9, 1992  
Case Closure Memos dated September 13, 1993 and May 5, 1994  
Permit reissued to Gary Keith Fairchild d.b.a. AWC on December 9, 1997  
Letter from Fairchild giving all plants away dated February 13, 2002  
Change of ownership submitted by Lance Bowling d.b.a. EKWC on February 23, 2002  
Permit transferred to Lance Bowling d.b.a. EKWC on February 27, 2002  
Permit issued to Lance Bowling d.b.a. EKWC on June 18, 2003  
Verified Complaint filed by Cabinet in July of 2005 (see appendix F)  
Larry Stambaugh, Certification Number 13665, took over operation of plant in December 2005  
Permit expired on December 31, 2005  
Larry Stambaugh resigns as operator June 30, 2006

**PRESTON ESTATES SUBDIVISION: (See Appendix D)**

Preston Estates Subdivision, AI 2401, DOW 040065  
Preston Estates Road, Meally, KY 41234  
KPDES Permit No. KY 0080047 discharging to Buffalo Creek at mile point 0.23

Permit issued to E.J. Preston on February 1, 1979  
Permit issued to Gary Keith Fairchild d.b.a. AWC on September 14, 1995  
Referred to OLS May 10, 2001  
Agreed Order filed with Lance Bowling d.b.a. EKWC on April 23, 2003  
Verified Complaint filed in July of 2005 (see appendix F)  
Larry Stambaugh, Certification Number 13665, took over operation of plant in December 2005  
Permit expired December 31, 2005  
Letter requesting all DMRs be sent to McCoy & McCoy dated February 26, 2006  
Larry Stambaugh resigns as operator June 30, 2006  
Letter from KPDES stating permit is finalized, requesting permit fee dated November 9, 2006

**RICHMOND HILLS SUBDIVISION: (See Appendix E)**

Richmond Hills Subdivision, AI 2409  
KY 1107, Van Lear, KY 41265  
KPDES Permit No. KY 0093823 discharging to an unnamed tributary at mile point 0.3 of John's Creek at mile point 2.15

Eastern Kentucky Homes, Inc., cited for construction without a permit on July 5, 1982  
Complaint filed April 27, 1987 with First Commonwealth Bank (as stated in Agreed Order)  
Agreed Order filed by Cabinet on February 22, 1989 filed against First Commonwealth Bank and signed by Gary Keith Fairchild d.b.a. AWC  
Permit issued to Gary Keith Fairchild d.b.a. AWC on February 13, 1990  
Permit re-issued to Gary Keith Fairchild d.b.a. AWC on April 11, 1995  
Permit re-issued to Gary Keith Fairchild d.b.a. AWC on December 7, 2000  
Letter from Keith Fairchild giving away all plants dated February 13, 2002  
Change of Ownership submitted by Lance Bowling d.b.a. EKWC on February 23, 2002

Permit transferred to Lance Bowling d.b.a. EKWC on June 21, 2002  
Verified Complaint filed July of 2005 (see appendix F)  
Larry Stambaugh, Certification Number 13665, took over operation of plant in December 2005  
Letter requesting DMRs be sent to McCoy & McCoy dated February 26, 2006  
Permit expired February 28, 2006  
Larry Stambaugh resigns as operator June 30, 2006  
Letter from KPDES requesting permit fee dated November 9, 2006  
Letter from KPDES for final permit issuance dated December 15, 2006

**VERIFIED COMPLAINT: (See Appendix F)**

On July 26, 2005, a motion for Temporary Injunction was filed in Franklin Circuit Court to enjoin the Defendant, Lance Bowling, from degrading the waters of the Commonwealth. A Verified Complaint was filed July 26, 2005, against Mr. Bowling, and on August 24, 2005, a motion to set the matter for a hearing was filed along with a Motion to Show Cause. An Amended Motion to Show Cause, and the motion to set the matter for a hearing were filed September 7, 2005. The Show Cause motion moved that Mr. Bowling show cause why he should not be held in contempt for failure to comply with the Order entered July 26, 2005, requiring him to stop discharging or allowing the discharge from the wastewater treatment plants. On May 19, 2006, a Motion for a Second Show Cause Order was filed. A Temporary Injunction Order appointing a temporary receiver was filed December 21, 2006. On December 27, 2006, an Entry of Appearance was filed by Ned Pillersdorf on behalf of the Defendant.

**NOTICES OF VIOLATION (NOV)**

**BURKESHIRE DEVELOPMENT SUBDIVISION:** received two NOVs in 2006, six NOVs in 2005, and one NOV in 2004

**NEAL PRICE SUBDIVISION:** received five NOVs in 2006, and six NOVs in 2005

**PARADISE VILLAGE (VALLEY) SUBDIVISION:** received two NOVs in 2006, seven NOVs in 2005, and one NOV in 2004

**PRESTON ESTATES SUBDIVISION:** received three NOVs in 2006, six NOVs in 2005, and one NOV in 2004



**RICHMOND HILLS SUBDIVISION:** received four NOVs in 2006, and five NOVs in 2005

**WITNESSES:**

Mr. Paul Rogers, Inspector; Mr. Denver Lee Pigman, Inspector III;  
Mr. George Flora, Inspector III; Roger Martin, Environmental Control Supervisor  
DOW Hazard Regional Office, 233 Birch Street, Suite 1, Hazard, KY 41701  
(606) 435-6022

Mr. Ricky Knight, Special Investigative Agent III, Office of the Inspector General, Suite 61  
Wilkinson Blvd., Frankfort, KY 40601, (502) 564-1985

**DIVISION OF ENFORCEMENT CONTACT PERSON:**

Cathleen Adams, Environmental Enforcement Specialist or Jeff Cummins Environmental  
Control Manager  
Kentucky Division of Enforcement  
14 Reilly Road, Frankfort Office Park  
Frankfort, KY 40601  
(502) 564-2150

**STATEMENT OF THE CASE**

The Division of Enforcement has had long standing enforcement cases with all five of these wastewater treatment plants. All of the wastewater treatment plants are creating public health threats due to improper operation and maintenance, and degradation of the waters of the Commonwealth. Based on citizen complaints and the most recent inspections by the Division of Water, raw sewage is being discharged, creating hazardous conditions. Mr. Bowling was cited for violations of KAR Chapter 5 on Notices of Violation issued in 2004, 2005 and 2006 at all facilities. In addition, Mr. Bowling's wastewater operator's license expired on July 1, 2005. Larry Stambaugh, Certification Number 13665, took over operation of all five plants in December 2005. Larry Stambaugh resigned as operator June 30, 2006.

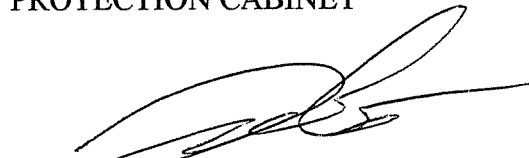
## STATEMENT OF LAW

At issue is the question of whether the wastewater treatment plants herein are "abandoned" pursuant to KRS 278.021, justifying the appointment of a receiver. The Cabinet contends that the facilities have been figuratively, as well as literally, abandoned. According to the Public Service Commission the facilities were never lawfully transferred by Mr. Keith Fairchild. Until recently, the facilities have been "operated" by Mr. Lance Bowling who is not a certified licensed operator. Bowling's operation, or more specifically the lack thereof, has resulted in numerous environmental violations. These environmental violations are directly attributable to, and are as a result of, the lack of service provided by these wastewater treatment plants. In this case, the lack of service provided by Mr. Lance Bowling even when facing court action, including incarceration, constitutes abandonment. This abandonment has caused not only environmental violations, but serious public health concerns as well. The release and backing up of raw sewage in and around residents living in these subdivisions is a serious health hazard. The Cabinet is currently negotiating with Prestonsburg City's Utilities Commission in an effort to temporarily secure them as the operator of these wastewater treatment plants.

WHEREFORE, the Cabinet respectfully requests that the PSC find that the wastewater treatment plants at issue be found to have been abandoned pursuant to KRS 278.021, justifying the appointment of a receiver, and any and all other relief deemed appropriate.

Respectfully submitted,

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET



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JOHN S. WEST

Office of Legal Services

Fifth Floor, Capital Plaza Tower

Frankfort, Kentucky 40601

(502) 564-5576 Telephone, (502) 564-6131 Facsimile

COUNSEL FOR THE CABINET

**CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of February, 2007, a true and accurate copy of the foregoing **PREHEARING INVESTIGATION MEMORANDUM** was mailed, postage pre-paid, to the following:

Gary Keith Fairchild  
Appalachian Waste Control  
2656 Route 2039  
Hager Hill, Kentucky 41222


Jeffrey Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Hon. Squire Williams III  
Special Master Commission  
Hazelrigg and Cox  
415 West Main Street  
P.O. Box 676  
Frankfort, Kentucky 40601

Hon. Scott Porter  
Office of the Attorney General's Office  
700 Capitol Avenue  
Capitol Building Suite 118  
Frankfort, Kentucky 40601

Hon. Ned Pillersdorf (Council for Lance Bowling)  
Pillersdorf, Derossett & Lane  
124 West Court Street  
Prestonsburg, Kentucky 41653

Hon. Kipley McNally, PLC (Council for Prestonsburg Utilities)  
2527 Nelson Miller Parkway  
Suite 104  
Louisville, Kentucky 40223

  
\_\_\_\_\_  
JOHN S. WEST

# **APPENDIX A**



COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**OCT 06 1998**

Mr. Michael Burkett  
Burkeshire Development  
517 F. M. Stafford Avenue  
Paintsville, Kentucky 41240

Re: NPDES No.: KY0102687  
Left Fork Rockhouse Creek  
Johnson County, Kentucky

Dear Mr. Burkett:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Left Fork Rockhouse Creek. 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 copies of request for hearing should be submitted in writing to the Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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 Ms. Judy Zeigler, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

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,

A handwritten signature in black ink, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:NG  
Enclosure  
c: Hazard Regional Office





COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

STATEMENT OF BASIS

KPDES No.: KY0102687      Permit Writer: Daymond Talley      Date: August 11, 1998

Facility Name: Left Fork Rockhouse Creek

Facility Location: State Route 2039  
Left Fork Rockhouse Creek, Johnson County,  
Kentucky

Permitting Action: This is an issuance of a permit for a  
Subdivision.

Permit Duration: Five (5) years

Receiving Stream: Left Fork of Rockhouse Creek at mile point 0.05

Stream Segment Use Classification: Warmwater Aquatic Habitat and Primary/Secondary  
Contact Recreation

Stream Low Flow Condition: 0.00 cfs

Justification of Permit Conditions:

The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.

Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

Nondegradation  
The conditions of 401 KAR 5:029, Section 2(1) and (3) have been satisfied by this permit action. A review under Section 2(2) and (4) is not applicable.

(Disk #3/fd)



KPD ES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

PERMIT

PERMIT NO.: KY0102687

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Burkshire Development  
517 F. M. Stafford Avenue  
Paintsville, Kentucky 41240

is authorized to discharge from a facility located at

Left Fork Rockhouse Creek  
State Route 2039  
Left Fork Rockhouse Creek, Johnson County, Kentucky

to receiving waters named

Left Fork of Rockhouse Creek at mile point 0.05

in accordance with effluent limitations, monitoring requirements and other conditions set forth in PARTS I, II, and III hereof. The permit consists of this cover sheet, and PART I 2 pages, PART II 1 page, and PART III 1 page.

This permit shall become effective on **DEC 0 1 1998**

This permit and the authorization to discharge shall expire at midnight,

**NOV 3 0 2003**

**OCT 0 6 1998**

Date Signed

A handwritten signature in black ink, appearing to read 'Jack A. Wilson', written over a horizontal line.

Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601



A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from Outfall serial number: 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>				
	Monthly Avg.	Daily Max.	lbs/day	Other Units (Specify) Monthly Avg.	Report	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.008 mgd)	N/A	N/A	N/A	Report	Report	1/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5-day), Carbonaceous	2.00	4.00	4.00	30 mg/l	60 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	2.00	4.00	4.00	30 mg/l	60 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	N/A	200	400	1/Quarter	Grab	Effluent
Ammonia (as N)	0.27	0.53	0.53	4 mg/l*	8 mg/l*	1/Quarter	Composite	Effluent
	0.67	1.33	1.33	10 mg/l**	20 mg/l**			
Dissolved Oxygen shall not be less than 7 mg/l						1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per Quarter by Grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each quarter must be summarized and reported on a preprinted Discharge Monitoring Report (DMR) form which will be mailed to you. Each quarter's completed DMR must be mailed to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 40601  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:080 and KRS 224, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

# CHANGE IN OWNERSHIP CERTIFICATION

*copy made*

Facility Name <i>BURKESHIRE DEV. Subdivision</i>	NPDES NO. <i>KY0102687</i>
Previous Name (if changed) <i>NONE 1999 APR 30 A 11:17</i>	County <i>JOHNSON</i>

I hereby certify that I will assume ownership and all responsibility for meeting the permit conditions of the Commonwealth of Kentucky relating to water quality at the permitted facility listed below on the effective date indicated.

RECEIVED BY KPDES BRANCH

Name of New Owner or Authorized Representative	<i>Keith Fairchild</i>
Company Name	<i>APPALACHIAN WASTE CONTROL, INC.</i>
Address of New Owner	<i>2656 Rt. 2039 Hager Hill Ky. 41222</i>
Telephone No. of Owner/Authorized Representative	<i>606-297-6809</i>
Location Address of Facility	<i>BURKESHIRE LANDING, RT 2039 STAFFORDVILLE</i>
Effective Date of Transfer	<i>1-25-99</i>
Previous Owner Name	<i>BURKESHIRE DEV., INC c/o MICHAEL BURKETT</i>

Indicate the address where the Discharge Monitoring Report (DMR) forms should be sent. (Complete only if different from owner name and address listed above.) These DMR forms are preprinted with permit limitations and mailed out each quarter (semi-annually for individual residences).

Alternate DMR Mailing Name	
Alternate DMR Mailing Address	

Signature of New Owner or Authorized Representative <i>Keith Fairchild</i>	Date <i>1-25-99</i>
---	------------------------

Acknowledged before me this 26 day of Jan, 19 99.

Notary Public *Jeresa A. Litteral* Commission Expires: *2-1-2001*

**Complete and return this form to:**  
 KPDES Branch, Division of Water  
 Frankfort Office Park  
 14 Reilly Road  
 Frankfort, KY 40601

*Notary Seal*

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

May 3, 1999

Mr. Keith Fairchild  
Appalachian Waste Control  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: Burkeshire Development Subdivision  
KPDES Permit No.: KY0102687  
Johnson County, Kentucky

Dear Mr. Fairchild:

The Division of Water received the Change in Ownership Certification for the above-referenced facility. The Kentucky Pollutant Discharge Elimination System (KPDES) permit has been revised to reflect this change. Enclosed is a copy of the KPDES permit with the revised page.

If you have any questions, please contact Pete Beckley, of my staff, at (502) 564-2225, extension 469.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Scott" followed by a small circular mark.

R. Bruce Scott, P.E.  
Environmental Engineer Branch Manager  
KPDES Branch  
Division of Water

RBS:PB:pg  
Enclosure

c: Hazard Regional Office  
Division of Water Files



Johnson

2002 FEB 11 11 P 12 31  
KENTUCKY DIVISION OF WATER

Gary Keith Fairchild  
2656 KY RT 2039  
Hager Hill, KY 41222

February 13, 2002

Division of Water  
Permits Branch  
Frankfort Office Park,  
14 Reilly Road  
Frankfort, KY 40601


Dear Sir:

This letter is to notify the KY Division of Water that as of February 1, 2002, that all Waste Water Systems owned by Appalachian Waste Control have been given away. A list of these systems is included with this letter.

Mr. Lance Bowling, **Class I Certification Number 01485** has accepted the systems. He is currently certified by KY Division of Water in Waste Water Operation. He began operation and maintenance of the systems as of February 1, 2002.

Both parties are proceeding with the paperwork needed to complete the transfers.

Sincerely,



Gary Keith Fairchild

Neil Price Subdivision	KY0097225
Preston Estates	KY0080047
Richmond Hills Estates	KY0093823
Paradise Village	KY0076686
Burkeshire Estates	KY0102687

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

February 27, 2002

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Burkeshire Estates  
KPDES Permit No.: KY0102687  
Johnson County, Kentucky

Dear Mr. Bowling:

The Division of Water received the Change in Ownership Certification for the above-referenced facility. The Kentucky Pollutant Discharge Elimination System (KPDES) permit has been revised to reflect this change. Enclosed is a copy of the KPDES permit with the revised page.

If you have any questions, please contact Pete Beckley, of my staff, at (502) 564-2225, extension 469.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Scott".

**R. Bruce Scott, P.E.**  
Environmental Engineer Branch Manager  
KPDES Branch  
Division of Water

RBS:PB:pg  
Enclosure

c: Hazard Regional Office  
Division of Water Files



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CHANGE IN OWNERSHIP CERTIFICATION

1-

Facility Name <i>Burkeshire Estates</i>	NPDES No. <i>KY 0102687</i>
Previous Name (if changed)	County <i>Johnson</i>

I hereby certify that I will assume ownership and all responsibility for meeting the permit conditions of the Commonwealth of Kentucky relating to water quality at the permitted facility listed above on the effective date indicated.

Name of New Owner or Authorized Representative	<i>Lance Bowling</i>
Company Name	<i>East Kentucky Waste Control</i> <small>ESTABLISHED BY KPDES BRANCH</small>
Address of New Owner (Street, City, State, Zip Code)	<i>153 George Br East Point Ky 41216</i>
Telephone No. of Owner/Authorized Representative	<i>(606) 889-0414</i>
Location Address of Facility	<i>Burkeshire Estates Stoddardville, Ky.</i>
Effective Date of Transfer	<i>Feb 1, 2002</i>
Previous Owner Name	<i>Appalachian Waste Control</i>

Indicate the address where the Discharge Monitoring Report (DMR) forms should be sent. (Complete only if different from owner name and address listed above.) These DMR forms are preprinted with permit limitations and mailed out each quarter (semi-annually for individual residences).

Alternate DMR Mailing Name	
Alternate DMR Mailing Address	

Signature of New Owner or Authorized Representative <i>Lance Bowf</i>	Date <i>2-23-02</i>
--	------------------------

Acknowledged before me this 25 day of February, 2002

Notary Public *Linda Bowling* Commission Expires: *Dec. 7, 2002*

Notary Seal

Questions on completing this form? Contact the KPDES Branch at (502) 564-3410.

Complete and return this form to:  
 Division of Water, KPDES Branch  
 Frankfort Office Park  
 14 Reilly Road  
 Frankfort, KY 40601



ERNIE FLETCHER  
GOVERNOR

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

LAJUANA S. WILCHER  
SECRETARY

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

August 12, 2004

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Burkeshire Development  
KPDES No.: KY0102687  
Johnson County, Kentucky

Dear Mr. Bowling:

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.

Your facility is being issued a permit that is shorter than the normal five-year term in order to synchronize permit issuance by watershed. The permit fee that is assessed for this short-term permit is prorated based on the permit duration. Implementation of watershed permitting began in the year 2001 and your targeted permit issuance is based upon your location in the watershed basin. Since your total fee has already been paid, a \$16.75 refund will be sent to you in 6-8 weeks.

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.

Mr. Lance Bowling  
Burkeshire Development/KY0102687  
Page Two

If you have any questions regarding the KPDES decision, please contact Courtney Seitz, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

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,

A handwritten signature in black ink, appearing to read "J. W. Pratt". The signature is stylized and cursive.

Jeffrey W. Pratt, Director  
Division of Water

JWP:NG:ng  
Enclosure

c: Hazard Regional Office  
Division of Water Files

**KPDÉS**



**KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM**

**PERMIT**

PERMIT NO.: KY0102687

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

Pursuant to Authority in KRS 224,

East KY Waste Control  
153 George Branch  
East Point, Kentucky 41216

is authorized to discharge from a facility located at

Burkeshire Development  
State Route 2039  
Rockhouse Creek, Johnson County, Kentucky

to receiving waters named

Left Fork of Rockhouse Creek at mile point 0.05

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 October 1, 2004.

This permit and the authorization to discharge shall expire at midnight, February 28, 2006.

A handwritten signature in black ink, appearing to read "J. W. Pratt".

August 12, 2004  
Date Signed

Jeffrey W. Pratt, Director  
Division of Water

Lloyd R. Cress  
Commissioner

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

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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

LAJUANA S. WILCHER  
SECRETARY

### STATEMENT OF BASIS

**KPDES No.:** KY0102687      **Permit Writer:** Dan Juett      **Date:** May 13, 2004  
**AI No.:** 2326

**Facility Name:** Burkeshire Development

**Facility Location:** State Route 2039  
Rockhouse Creek, Johnson County, Kentucky

**Permitting Action:** This is a reissuance of a permit for a subdivision SIC Code 6552.

**Permit Duration:** Expires February 28, 2006. This expiration date will place the facility in the correct 5-year cycle as per the Kentucky Watershed Management Framework. In this instance, the permit is scheduled for reissuance in March 2006 for the Big and Little Sandy/Tygarts Basin Management Unit.

**Description of Discharge:** Sanitary wastewater with an average daily design flow of 0.008 million gallons per day

**Receiving Stream:** Left Fork of Rockhouse Creek at mile point 0.05

**Stream Segment Use Classification:** Warmwater Aquatic Habitat, Primary/Secondary Contact Recreation, and Domestic Water Supply

**Stream Low Flow Condition:** 0.00 cfs

**Regional Facility Plan:** The plant is located within the regional facility planning area of the city of Paintsville. The current facility is compatible with the regional facility plan and no regional facility is available for connection as defined in regulation 401 KAR 5:002, Section 1(21).

**Justification of Permit Conditions:**  
The following regulations are pursuant to KRS 224.10-100, KRS 224.70-100, and KRS 224.70-110.

Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform, and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

**Antidegradation:**  
The conditions of 401 KAR 5:029, Section 1(1) have been satisfied by this permit action. A review under Section 1(2), (3), and (4) is not applicable.

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd  
 Subject Item Inventory  
 Permit Number: KY0102687  
 Activity ID No.: APE20030001

**Subject Item Inventory:**

ID	Designation	Description
AIOO2326		
MNPT1	KY0102687 001	Sanitary Wastewater

**Receiving Stream Relationships:**

Subject Item	Relationship	Receiving Stream
AIOO2326	Discharges Into	Rockhouse Creek
MNPT1 Sanitary Wastewater	Discharges Into	LEFT FORK ROCKHOUSE 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 Wastewater

MNPT0000000001: KY0102687 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>	0.27 Monthly average (AV)	0.54 Daily maximum (MX)	lbs/day	*****	4 Monthly average (AV)	8 Daily maximum (MX)	mg/L	quarterly	composite sample	May - October
<i>Ammonia Nitrogen, Total (as N) effluent gross value</i>	0.67 Monthly average (AV)	1.34 Daily maximum (MX)	lbs/day	*****	10 Monthly average (AV)	20 Daily maximum (MX)	mg/L	quarterly	composite sample	November - April
<i>BOD, Carbonaceous 05 Day, 20C effluent gross value</i>	2.00 Monthly average (AV)	4.00 Daily maximum (MX)	lbs/day	*****	30 Monthly average (AV)	60 Daily maximum (MX)	mg/L	quarterly	composite sample	All Year
<i>Fecal Coliform, General effluent gross value</i>	*****	*****	*****	*****	200 Monthly geometric mean	400 Maximum weekly geometric mean	#/100 mL	quarterly	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)	*****	*****	*****	*****	weekly	instantaneous measurement	All Year
<i>Oxygen, Dissolved effluent gross value</i>	*****	*****	*****	7 Instantaneous minimum	*****	*****	mg/L	quarterly	grab sampling	All Year
<i>pH effluent gross value</i>	*****	*****	*****	6.0 Minimum	*****	9.0 Maximum	standard units	quarterly	grab sampling	All Year
<i>Solids, Total Suspended (TSS) effluent gross value</i>	2.00 Monthly average (AV)	4.00 Daily maximum (MX)	lbs/day	*****	30 Monthly average (AV)	60 Daily maximum (MX)	mg/L	quarterly	composite sample	All Year

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## MNPT1 (KY0102687 001) Sanitary Wastewater:

### 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 quarterly Discharge Monitoring Report (DMR) : Due quarterly, by the 28th of January, April, July, and October 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 0.008 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)]



# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## Narrative Requirements:

### 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]

### 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)]

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd  
Facility Requirements  
Permit Number: KY0102687  
Activity ID No.: APE20030001

## Narrative Requirements:

### Part II Standard Conditions for KPDES Permit:

Condition No.	Condition
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)]
T-12	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)]
T-13	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 revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition. [401 KAR 5:065 Section 1(6)]
T-14	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)]
T-15	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: (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; (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit; (c) Inspect at reasonable times any facilities, equipment, including monitoring and control equipment, practices, or operations regulated or required under this permit; and (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)]
T-16	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)]

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## 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

Burkeshire Development Subd  
Facility Requirements  
Permit Number: KY0102687  
Activity ID No.: APE20030001

## 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

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## 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>
T-35	<p>Part II Standard Conditions for KPDES Permit: Reporting Requirements - Other Noncompliance: 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>

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## Narrative Requirements:

### Part II Standard Conditions for KPDES Permit:

Condition No.	Condition
T-36	Part II Standard Conditions for KPDES Permit: Reporting Requirements - Other information: 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)]
T-37	Part II Standard Conditions for KPDES Permit: Occurrence of a Bypass - Notice: 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]
T-38	Part II Standard Conditions for KPDES Permit: 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]

### Part III Other Requirements:

Condition No.	Condition
T-39	Part III Other Requirements: KPDES Permit Reopener Clause: 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]
T-40	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)]

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## Narrative Requirements:

### Part III Other Requirements:

Condition No.	Condition
T-41	<p><b>Part III Other Requirements: Applicability.</b> Any person responsible for conducting any of the following activities shall prepare and implement a groundwater protection plan: [List 1 of 2]</p> <ul style="list-style-type: none"><li>storing or related handling of bulk quantities of pesticides or fertilizers for commercial purposes or distribution to a retail sales outlet;</li><li>applying of pesticides or fertilizers for commercial purposes or for public right-of-way maintenance or institutional lawn care;</li><li>land treatment or land disposal of a pollutant;</li><li>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;</li><li>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;</li><li>transmission in pipelines of raw materials, intermediate substances or products, finished products, or other pollutants;</li><li>installation or operation of on-site sewage disposal systems. [401 KAR 5:037 Section 2(2)]</li></ul>
T-42	<p><b>Part III Other Requirements: Applicability.</b> Any person responsible for conducting any of the following activities shall prepare and implement a groundwater protection plan: [List 2 of 2]</p> <ul style="list-style-type: none"><li>storing or related handling of road oils, dust suppressants, or deicing agents at a central location;</li><li>application or related handling of road oils, dust suppressants or deicing materials;</li><li>mining and associated activities;</li><li>installation, construction, operation, or abandonment of wells, bore holes, or core holes;</li><li>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;</li><li>impoundment or containment of pollutants in surface impoundments, lagoons, pits, or ditches;</li><li>or commercial or industrial transfer, including loading and unloading, in bulk quantities of raw materials, intermediate substances or products, finished products, or substances held for recycling, or other pollutants. [401 KAR 5:037 Section 2(2)]</li></ul>
T-43	<p><b>Part III Other Requirements:</b> 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)]</p>
T-44	<p><b>Part III Other Requirements:</b> 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]</p>

# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## Narrative Requirements:

### Part III Other Requirements:

Condition No.	Condition
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: 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-48	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)]
T-49	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-50	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-51	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-52	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)]



# Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

## Narrative Requirements:

### Part III Other Requirements:

Condition No.	Condition
T-53	<p>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)]</p>
T-54	<p>Part III Other Requirements: 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-55	<p>Part III Other Requirements: 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-56	<p>Part III Other Requirements: 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-57	<p>Part III Other Requirements: 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>

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

Burkeshire Development Subd

Facility Requirements

Permit Number: KY0102687

Activity ID No.: APE20030001

**Narrative Requirements:**

**Part III Other Requirements:**

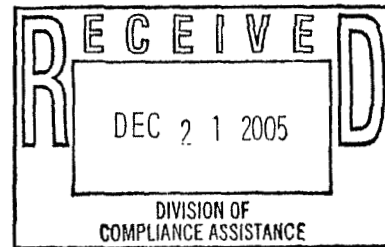
Condition No.	Condition
T-58	<p>Part III Other Requirements: The permittee shall comply with Requirements for Recording and Reporting of Monitoring Results:</p> <ul style="list-style-type: none"><li>(1) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring 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></ul>

To. division of compliance assistance

I, Larry Stambaugh, a certified class III waste water operator will be taking over the operation and maintenance of 5 residential package plants for East Kentucky Waste Control. Lance Bowling is and will remain to be the owner of the company and plants, but lost his license and is no longer certified to run the plants. My certification number if needed is 13665. Lance Bowling will also need to be taken off as the operator.

The 5 plants are in Johnson county. The names and certification numbers are as followed:  
Burkshire Estates Ky0102687, Richmond hills Ky0093823, Neil Price subdivision Ky0097225,  
Paradise Village Ky0076686, Preston Estates Ky0080047.

Larry Stambaugh



COUNTY: JOHNSON  
FACILITY: PARADISE, PRESTON, NEAL PRICE, BURKESHIRE, RICHMOND HILLS  
I.D. # 2396, 2401, 2392, 2409  
SECTION: KPDES  
SENT BY: USA BRANCH DENE

AI 33350  
LARRY STAMBAUGH

AI 27918  
JEFFREY LANCE BOWLING

February 26, 2006

Ms. Vicky Prather  
Natural Resources and Environmental Protection  
Division of Water- K.P.D.E.S. Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, KY 40601

Dear Ms. Prather:

Effective March 1, 2006, please send all K.P.D.E.S. Discharge Monitoring Reports for the following facilities:

Paradise Village Subdivision,	Johnson County	<u>KY0076686</u>
Bush Gardens,	Johnson County	<u>KY0103853</u>
Burkshire Development,	Johnson County	<u>KY0102687</u>
Neal Price Subidivision,	Johnson County	<u>KY0097225</u>

to the following address:

McCoy & McCoy Laboratories  
Attn: D.M.R. Coordinator  
P.O. Box 907, 825 Industrial Road  
Madisonville, KY 42431

Sincerely,

FACILITY: \_\_\_\_\_

CONTACT: Larry Standby

TITLE: operator

INPUT INTO PCS



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

LAJUANA S. WILCHER  
SECRETARY

November 9, 2006

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: KPDES Permit Fee Due  
Burkeshire Development Subdivision  
KPDES No.: KY0102687  
Johnson County, Kentucky

Dear Mr. Bowling:

The Kentucky Pollutant Discharge Elimination System (KPDES) permit for the above-referenced facility has been finalized and is ready for issuance in accordance with 401 KAR 5:075, and pursuant to KRS 224.16-050.

**The KPDES permit fee due is \$1200.00.** Please make your check or money order payable to the Kentucky State Treasurer and mail it to the Division of Water, KPDES Branch, Inventory and Data Management Section, 14 Reilly Road, Frankfort, Kentucky 40601, within thirty (30) days of the date of this letter. For your record keeping purposes, it is recommended that the fee be sent by certified mail.

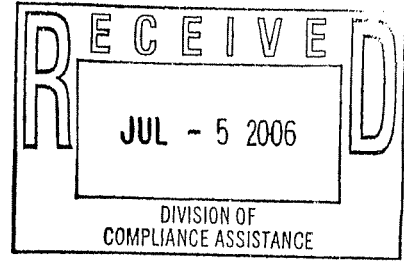
If you have any questions concerning this matter, please contact me at (502) 564-2225, extension 402.

Sincerely,

**Nancy Green, Program Coordinator**  
Inventory and Data Management Section  
KPDES Branch  
Division of Water

NG:ng  
c: Division of Water Files

1000 Commonwealth  
Frankfort, KY  
502.226.1111



AI # 33350

June 30, 2006

Wastewater Certification Section  
14 Reilly Road  
Frankfort, Ky 40601

To Whom It May Concern:

This letter is to notify you that I Larry M Stambaugh certification # 13665, agency interest # 33350 will no longer be the operator for the following sewer package treatment plants effective June 30, 2006.

Plant Name	Permit Number
Richmond Hills Estates	KY0093823
Preston Estates Subdivision	KY0080047
Burkeshire Development Subdivision	KY0102687
Neal Price Subdivision	KY0097225
Paradise Valley Subdivision	KY0076686

Sincerely,

Larry M Stambaugh

A handwritten signature in cursive script that reads "Larry M Stambaugh".

## **APPENDIX B**

PHILLIP J. SHEPHERD  
SECRETARY



BREURETON C. JONES  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

JAN 26 1993

Mr. Keith Fairchild  
Appalachian Waste Control, Inc.  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: NPDES No. KY0097225  
Johnson County, Kentucky

Dear Mr. Fairchild:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Neil Price Subdivision. 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.

If you wish to request an adjudicatory hearing, you must submit the request in writing (an original and two (2) copies) to the Department of Law within thirty (30) days from the date of this letter. For your record keeping purposes, it is recommended that this request be sent by certified mail. The hearing request must conform to the requirements of KRS 224.10-420.

If you have any questions regarding this permit, please contact Ms. Judy Zeigler of the Inventory and Data Management Section, KPDES Branch, at (502) 564-3410.

Further information on procedures and legal matters pertaining to the adjudicatory hearing may be obtained by contacting Ms. Kathy Hargraves, Department of Law, at (502) 564-5576.

Sincerely,

A handwritten signature in cursive script that reads "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:BT:dc

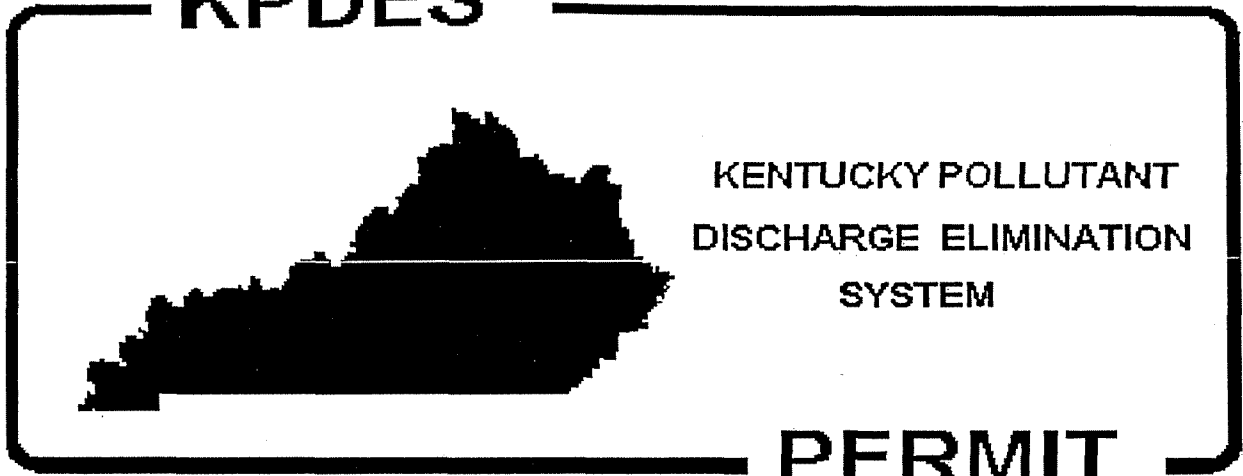
Enclosure

c: Hazard Regional Office  
Pam Butcher  
Glenn Patton





KPDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

PERMIT

PERMIT NO. KY0097225

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

Pursuant to Authority in KRS 224,

Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Neil Price Subdivision  
Kentucky Highway 1107  
Thelma, Kentucky - Johnson County

to receiving waters named

Unnamed tributary at mile point 0.23 to Levisa Fork at mile point 59.83

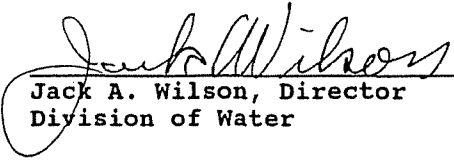
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on **MAR - 1 1993**

This permit and the authorization to discharge shall expire at midnight, **FEB 28 1998**

**JAN 26 1993**

Date Signed

  
\_\_\_\_\_  
Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s): 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>		
	Monthly Avg.	lbs/day Daily Max.	Other Units (Specify) Monthly Avg.	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.0025 mgd)	N/A	N/A	Report	1/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5 day), Carbonaceous	0.63	1.26	60 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	0.63	1.26	60 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	400	1/Quarter	Grab	Effluent
Ammonia (as N)	0.08	0.16	8 mg/l*	1/Quarter	Composite	Effluent
	0.21	0.42	20 mg/l**			
Dissolved Oxygen shall not be less than 7 mg/l				1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

PART II  
Page II-1  
Permit No.: KY0097225

**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.

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each quarter must be summarized and reported on a preprinted Discharge Monitoring Report (DMR) Form which will be mailed to you. Each quarter's completed DMR must be mailed to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:080 and KRS 224, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**MAY 11 1998**

Keith Fairchild, President  
Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: NPDES No.: KY0097225  
Johnson County, Kentucky  
Neal Price Subdivision

Dear Mr. Fairchild:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Neal Price Subdivision. 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 copies of request for hearing should be submitted in writing to the Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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 Ms. Judy Zeigler, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Hon. Barbara Foster, Division of Hearings, at (502) 564-7312.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:NG  
Enclosure  
c: Hazard Regional Office





COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**STATEMENT OF BASIS**

**KPDES No.:** KY0097225    **Permit Writer:** Sue L. Davis    **Date:** December 8, 1997

**Facility Name:** Neal Price Subdivision

**Facility Location:** Price Drive, off Kentucky Highway 1107  
Thelma, Johnson County, Kentucky

**Permitting Action:** This is a reissuance of a permit for a subdivision.

**Permit Duration:** 5 years

**Receiving Stream:** Unnamed tributary at mile point 0.23 to Levisa Fork at mile point 59.83

**Stream Segment Use Classification:** Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation

**Stream Low Flow Condition:** 0.01 cfs

**Justification of Permit Conditions:**

The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.

Biochemical Oxygen Demand (5 day), Total Suspended Solids, Fecal Coliform and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen

The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

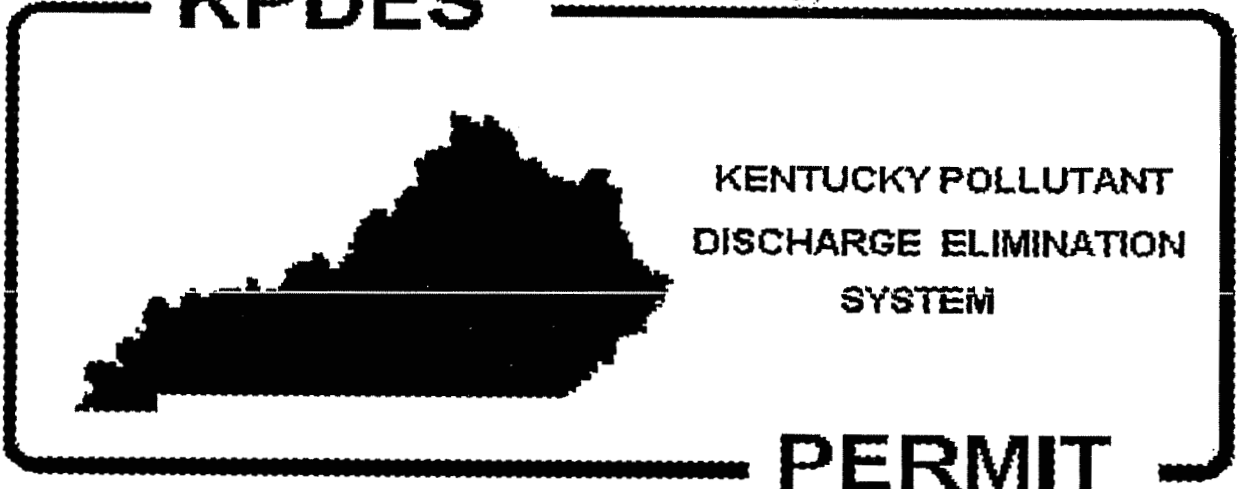
Nondegradation

The conditions of 401 KAR 5:029, Section 2(1) and (3), have been satisfied by this permit action. A review under Section 2(2) and (4) is not applicable.

(Disk #12/jk)



KPDES



PERMIT NO.: KY0097225

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Appalachian Waste Control, Inc.  
2656 Route 2039  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Neal Price Subdivision  
Price Drive, off Kentucky Highway 1107  
Thelma, Johnson County, Kentucky

to receiving waters named

Unnamed tributary at mile point 0.23 to Levisa Fork at mile point 59.83

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s), and Part III 1 page(s).

This permit shall become effective on **JUL 01 1998**

This permit and the authorization to discharge shall expire at midnight,

**JUN 30 2003**

**MAY 11 1998**

Date Signed

Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s): 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
	Monthly Avg.	lbs/day Daily Max.	Other Units (Specify Monthly Avg. Daily Max.)	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.0025 mgd)	N/A	N/A	Report	1/Quarter	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5-day), Carbonaceous	0.63	1.26	30 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	0.63	1.26	30 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	1/Quarter	Grab	Effluent
Ammonia (as N)	0.08 0.21	0.16 0.42	4 mg/l* 10 mg/l**	1/Quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l				1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30



B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each quarter must be summarized and reported on a preprinted Discharge Monitoring Report (DMR) form which will be mailed to you. Each quarter's completed DMR must be mailed to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

RECEIVED BY KPDES BRANCH

2002 FEB 14 P 12:34

Gary Keith Fairchild  
2656 KY RT 2039  
Hager Hill, KY 41222

February 13, 2002

Division of Water  
Permits Branch  
Frankfort Office Park,  
14 Reilly Road  
Frankfort, KY 40601

Dear Sir:

This letter is to notify the KY Division of Water that as of February 1, 2002, that all Waste Water Systems owned by Appalachian Waste Control have been given away. A list of these systems is included with this letter.

Mr. Lance Bowling, **Class I Certification Number 01485** has accepted the systems. He is currently certified by KY Division of Water in Waste Water Operation. He began operation and maintenance of the systems as of February 1, 2002.

Both parties are proceeding with the paperwork needed to complete the transfers.

Sincerely,

  
Gary Keith Fairchild

Neil Price Subdivision	KY0097225
Preston Estates	KY0080047
Richmond Hills Estates	KY0093823
Paradise Village	KY0076686
Burkeshire Estates	KY0102687

# CHANGE IN OWNERSHIP CERTIFICATION

18

Facility Name <i>Neil Price Estates</i>	NPDES No. <i>KY0097225</i>
Previous Name (if changed)  <i>2002 FEB 26 P 12:15</i>	County <i>Johnson</i>

I hereby certify that I will assume ownership and all responsibility for meeting the permit conditions of the Commonwealth of Kentucky relating to water quality at the permitted facility listed above on the effective date indicated.

Name of New Owner or Authorized Representative <i>Lance Bowling</i>	<i>NPDES BRANCH</i>
Company Name <i>East Kentucky Waste Control</i>	
Address of New Owner (Street, City, State, Zip Code) <i>153 George Br, East Point, Ky, 41216</i>	
Telephone No. of Owner/Authorized Representative <i>(606) 889-0414</i>	
Location Address of Facility <i>Neil Price Estates Thelma Ky</i>	
Effective Date of Transfer <i>Feb. 1, 2002</i>	
Previous Owner Name <i>Appalachian Waste Control</i>	

Indicate the address where the Discharge Monitoring Report (DMR) forms should be sent. (Complete only if different from owner name and address listed above.) These DMR forms are preprinted with permit limitations and mailed out each quarter (semi-annually for individual residences).

Alternate DMR Mailing Name	
Alternate DMR Mailing Address	

Signature of New Owner or Authorized Representative <i>Lance Bowling</i>	Date <i>2-23-02</i>
---	------------------------

Acknowledged before me this 25 day of February, 2002

Notary Public *Linda Bowling* Commission Expires: Dec 7, 2002

Notary Seal

**Questions on completing this form?** Contact the KPDES Branch at (502) 564-3410.

**Complete and return this form to:** Division of Water, KPDES Branch  
Frankfort Office Park  
14 Reilly Road  
Frankfort, KY 40601

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

February 27, 2002

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Neil Price Estates  
KPDES Permit No.: KY0097225  
Johnson County, Kentucky

Dear Mr. Bowling:

The Division of Water received the Change in Ownership Certification for the above-referenced facility. The Kentucky Pollutant Discharge Elimination System (KPDES) permit has been revised to reflect this change. Enclosed is a copy of the KPDES permit with the revised page.

If you have any questions, please contact Pete Beckley, of my staff, at (502) 564-2225, extension 469.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Scott".

**R. Bruce Scott, P.E.**  
Environmental Engineer Branch Manager  
KPDES Branch  
Division of Water

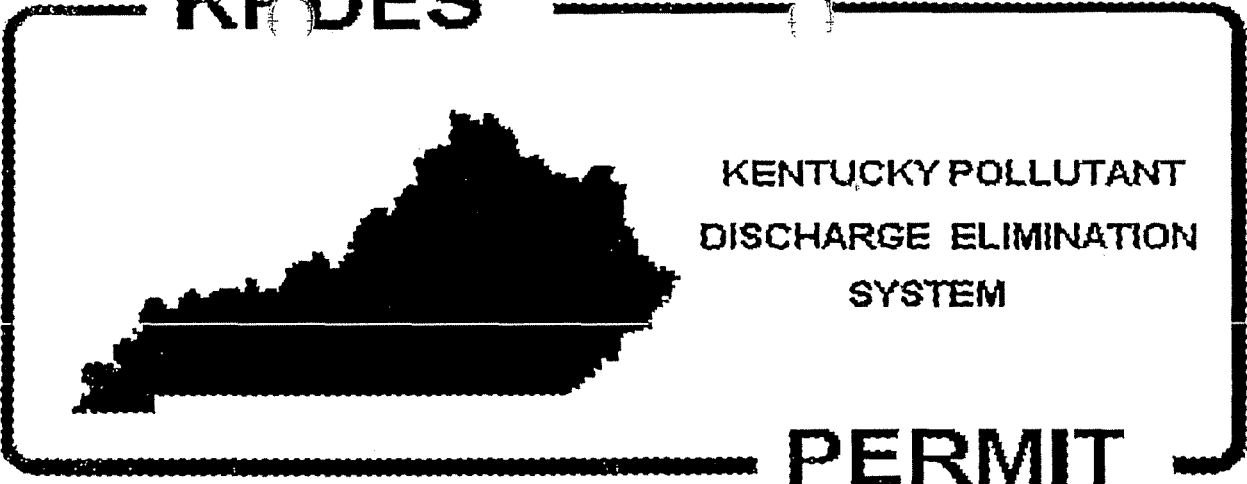
RBS:PB:pg  
Enclosure

c: Hazard Regional Office  
Division of Water Files



Printed on Recycled Paper  
An Equal Opportunity Employer M/F/D

KIDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

PERMIT

PERMIT NO.: KY0097225

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

This permit is transferred to:

Appalachian Waste Control, Inc.  
2656 Route 2039  
Hager Hill, Kentucky 41222

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

is authorized to discharge from a facility located at

Neal Price Subdivision  
Price Drive, off Kentucky Highway 1107  
Thelma, Johnson County, Kentucky

Effective Date: 2/27/02

to receiving waters named

Unnamed tributary at mile point 0.23 to Levisa Fork at mile point 59.83

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s), and Part III 1 page(s).

This permit shall become effective on **JUL 01 1998**

This permit and the authorization to discharge shall expire at midnight,

**JUN 30 2003**

**MAY 11 1998**

Date Signed

Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601



HENRY C. LIST  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

NOV 14 2003

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Neal Price Subdivision  
KPDES No.: KY0097225  
Johnson County, Kentucky

Dear Mr. Bowling:

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.

Your facility is being issued a permit that is shorter than the normal five-year term in order to synchronize permit issuance by watershed. The permit fee that is assessed for this short-term permit is prorated based on the permit duration. Implementation of watershed permitting began in the year 2001 and your targeted permit issuance is based upon your location in the watershed basin.

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 Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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.



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Mr. Lance Bowling  
Neal Price Subdivision/KY0097225  
Page Two

If you have any questions regarding the KPDES decision, please contact Courtney Seitz, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

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,



Jeffrey W. Pratt, Director  
Division of Water

JWP:NG:ng  
Enclosure

c: Hazard Regional Office  
Division of Water Files



COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**STATEMENT OF BASIS**

**KPDES No.:** KY0097225      **Permit Writer:** Ben Muncy      **Date:** August 5, 2003

**Facility Name:** Neal Price Subdivision

**Facility Location:** Price Drive, off Kentucky Highway 1107  
Thelma, Johnson County, Kentucky

**Permitting Action:** This is a reissuance of a permit for a subdivision.

**Permit Duration:** Expires December 31, 2005. This expiration date will place the facility in the correct 5-year cycle as per the Kentucky Watershed Management Framework. In this instance, the permit is scheduled for reissuance in January 2006 for the Big Sandy Basin Management Unit.

**Receiving Stream:** Unnamed tributary at mile point 0.23 to Levisa Fork at mile point 59.83

**Stream Segment Use Classification:** Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation

**Stream Low Flow Condition:** 0.01 cfs

**Regional Facility Plan:** The plant is not located within a facility planning area. No regional facility is available for connection as defined in Regulation 401 KAR 5:002, Section 1(21).

**Justification of Permit Conditions:**

The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.

Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform, and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

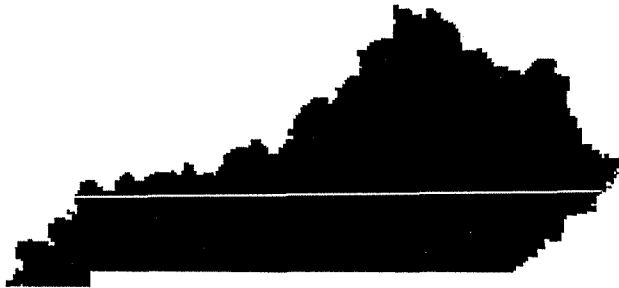
**Antidegradation:**

The conditions of 401 KAR 5:029, Section 1(1) have been satisfied by this permit action. A review under Section 1(2), (3), and (4) is not applicable.

cw



**KPDES**



**KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM**

**PERMIT**

PERMIT NO.: KY0097225

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

Pursuant to Authority in KRS 224,

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

is authorized to discharge from a facility located at

Neal Price Subdivision  
Price Drive, off Kentucky Highway 1107  
Thelma, Johnson County, Kentucky

to receiving waters named


Unnamed tributary at mile point 0.23 to Levisa Fork at mile point 59.83

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 pages, Part II 1 page, and Part III 1 page.

This permit shall become effective on **JAN 1 2004**

This permit and the authorization to discharge shall expire at midnight, December 31, 2005.

NOV 14 2003  
Date Signed

  
\_\_\_\_\_  
Jeffrey W. Pratt, Director  
Division of Water

Robert W. Logan  
Commissioner

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from Outfall serial number: 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
	Monthly Avg.	lbs/day Daily Max.	Other Units (Specify) Monthly Avg.	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.0025 mgd)	N/A	N/A	Report	1/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5-day), Carbonaceous	0.63	1.26	30 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	0.63	1.26	30 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	1/Quarter	Grab	Effluent
Ammonia (as N)	0.08 0.21	0.16 0.42	4 mg/l* 10 mg/l**	1/Quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l				1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. 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.

**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.

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each quarter must be summarized and reported on a preprinted Discharge Monitoring Report (DMR) Form that will be mailed to you. Each quarter's completed DMR must be mailed to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
Attn: Supervisor

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water/KPDES Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

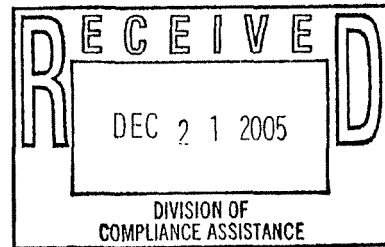


To. division of compliance assistance

I, Larry Stambaugh, a certified class III waste water operator will be taking over the operation and maintenance of 5 residential package plants for East Kentucky Waste Control. Lance Bowling is and will remain to be the owner of the company and plants, but lost his license and is no longer certified to run the plants. My certification number if needed is 13665. Lance Bowling will also need to be taken off as the operator.

The 5 plants are in Johnson county. The names and certification numbers are as followed:  
Burkshire Estates Ky0102687, Richmond hills Ky0093823, Neil Price subdivision Ky0097225,  
Paradise Village Ky0076686, Preston Estates Ky0080047.

Larry Stambaugh



COUNTY: JOHNSON  
FACILITY: PARADISE, PRESTON, NEAL PRICE, BURKESHIRE, RICHMOND HILLS  
I.D. # 2396, 2401, 2392, 2409  
SECTION: KPDES  
SENT BY: CSA BRANCH DENE

AI 33350  
LARRY STAMBAUGH

AI 27918  
JEFFREY LANCE BOWLING

February 26, 2006

Ms. Vicky Prather  
Natural Resources and Environmental Protection  
Division of Water- K.P.D.E.S. Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, KY 40601

Dear Ms. Prather:

Effective March 1, 2006, please send all K.P.D.E.S. Discharge Monitoring Reports for the following facilities:

Paradise Village Subdivision,	Johnson County	<u>KY0076686</u>
Bush Gardens,	Johnson County	<u>KY0103853</u>
Burkshire Development,	Johnson County	<u>KY0102687</u>
Neal Price Subidivision,	Johnson County	<u>KY0097225</u>

to the following address:

McCoy & McCoy Laboratories  
Attn: D.M.R. Coordinator  
P.O. Box 907, 825 Industrial Road  
Madisonville, KY 42431

Sincerely,

FACILITY: \_\_\_\_\_

CONTACT: Larry Stambay

TITLE: operator

INPUT INTO PCS



ERNIE FLETCHER  
GOVERNOR

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

LAJUANA S. WILCHER  
SECRETARY

June 7, 2006

Lance Bowling  
153 George Branch  
East Point, KY 41216

Re: Neil Price Subd WWTP  
Johnson County, Kentucky  
Project ID: 06-0073  
Activity ID: APE20060001  
AI ID: 2392

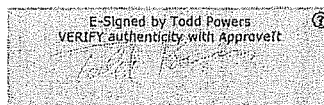
Dear Mr. Bowling:

As stated in our previous correspondence, an initial review has been performed on the above referenced project. During this process it was determined that insufficient information had been submitted for us to perform a complete review. In February, we requested that this information be provided to us within thirty (30) days to facilitate a timely review.

Since we still have not received the required information, we must assume that either this project has been canceled or a change in the scope has caused a delay. Additionally, the Division of Enforcement has informed us the WWTP was placed in service prior to your application for a construction permit and is inadequate for the subdivision's treatment needs. We are, therefore returning these plans to you **NOT APPROVED**. Should you desire to have these plans approved in the future, they must be resubmitted along with all the necessary information required for us to do a complete review.

**We would remind you that construction of these facilities without prior written approval is a violation of 401 KAR 5:005 and is subject to enforcement action and associated penalties.**

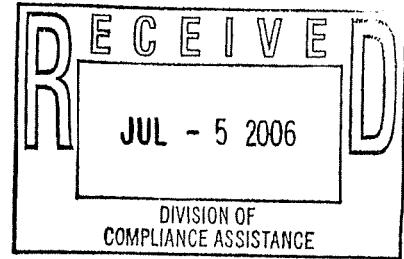
Sincerely,



Todd Powers  
Facilities Construction Branch  
Division of Water

cc: Hazard Regional Office  
KPDES  
Cathleen Adams / Division of Enforcement

Larry M Stambaugh  
PO Box 916  
Staffordsville Ky 40356  
2006.06.10.05



AI # 33350

June 30, 2006

Wastewater Certification Section  
14 Reilly Road  
Frankfort, Ky 40601

To Whom It May Concern:

This letter is to notify you that I Larry M Stambaugh certification # 13665, agency interest # 33350 will no longer be the operator for the following sewer package treatment plants effective June 30, 2006.

Plant Name	Permit Number
Richmond Hills Estates	KY0093823
Preston Estates Subdivision	KY0080047
Burkeshire Development Subdivision	KY0102687
Neal Price Subdivision	KY0097225
Paradise Valley Subdivision	KY0076686

Sincerely,

Larry M Stambaugh

A handwritten signature in cursive script that reads "Larry M Stambaugh".

## **APPENDIX C**

APPENDIX A

APPENDIX TO AN ORDER OF THE PUBLIC SERVICE  
COMMISSION IN CASE NO. 8814 DATED  
OCTOBER 13, 1983

R E P O R T

TO: Claude G. Rhorer, Jr. *CR*  
Director  
Division of Utility Engineering  
and Services

FROM: K. Michael Newton *K.M.N.*  
Utility Investigator  
Water and Sewage Section

RE: Investigation Into Customer Complaint  
Ms. Vandella Caudill and Other Vs  
Suburban Sewage Treatment

DATE: July 19, 1983

Brief

The subject investigation was made June 22, 1983, to investigate a complaint by Ms. Vandella Caudill and Others of odor generated by Suburban Sewage Treatment (see attached letter). The basic objective was to make an inspection of the treatment plant for obvious deficiencies in its daily operations.

Investigation

On June 22, 1983, a meeting was held with Mr. Paul Pelphrey to discuss the current situation at Suburban Sewage Treatment in Hager Hills Subdivision.

Mr. Pelphrey stated he has been collecting the revenues and paying the expenses associated with the sewage plant for the past three (3) years. Mr. Pelphrey went on to say the plant is approximately twelve (12) years old and was originally constructed by Mr. Wayne T. Morgan. Mr. Morgan also laid the main sewage lines within Hager Hills Subdivision. Mr. Morgan was to operate

the plant, pay expenses, and collect the sewage bills from customers of Hager Hills Subdivision. However, Mr. Morgan constructed this sewage plant on property owned by Mr. Pelphrey. Mr. Morgan was to lease or rent this property from Mr. Pelphrey, but five (5) years ago Mr. Morgan died and no known heirs claimed the waste-water treatment plant.

Mr. Pelphrey states that Mr. Gene Gray took over the operation and maintenance after Mr. Morgan's death. Mr. Gray continued this responsibility until three (3) years ago when he sold his home in Hager Hills Subdivision and moved away. Mr. Paul Pelphrey comments that he took over the plant at this time.

Suburban Sewage Treatment is approximately a 7,500 gallon per day extended aeration plant. The plant is located adjacent to Hager Hills Subdivision and is approximately 40 feet from Ms. Vandella Caudill's home.

During the June 22, 1983, site visit the following observations were made:

1. The comminutor was not operating and had been removed from its mounting bracket.
2. The aeration blower was operating but the diffusers were missing.
3. The sludge needed to be hauled off.
4. The electrical timer was exposed to the elements (cover had been removed).
5. The weeds needed to be cut inside plant area.
6. Grates to cover the sewer plant were missing and needed to be replaced.

From these observations the sewer plant is still not meeting the treatment level required in its NPDES permit. The Natural Resources and Environmental Protection Cabinet ("NREPC") was contacted July 13, 1983. This matter was discussed with Mr. James Mitchell of NREPC's Division of Water. Mr. Mitchell and this investigator reviewed the file on this sewage plant (see attached information), and examined an Agreed Order between Mr. Pelphrey and NREPC. One of the major points of this agreed order was that Mr. Pelphrey would form a sanitation district and register it with the Public Service Commission as Suburban Sanitation Incorporated. This agreement was entered into in late 1979 and to this date Mr. Pelphrey has not complied with that order.

On June 22, 1983, a meeting with Vandella and Darwin Caudill, the complainants, was held to discuss the sewage treatment plant. Mr. Caudill complained about the odor generated, and the weeds growing within the plant, and the effluent ditch from the treatment plant. Mrs. Caudill stated that numerous times she has cleaned out the ditch and that her husband has cleaned the weeds around the plant. The Caudills remarked that currently there were sixteen (16) customers being served by this sewage system and within Hager Hills Subdivision there are only 12 homes. A document supplied by Mr. Pelphrey's secretary (see attached list of customers) verified this fact. The Caudills went on to say that they believed the plant was only large enough to handle the twelve (12) original homes of the subdivision. They also said that Mr. Pelphrey had been handling the billing for the sewage plant since it was constructed, the Caudill's neighbors had bills dating back beyond the three (3) years which



Mr. Pelphrey had previously alluded. Mr. Pelphrey's secretary had also made a statement to this investigator that Mr. Pelphrey had been sending bills to customers of Hager Hills since 1977, which would indicate Mr. Pelphrey's involvement in this plant preceding the past three (3) years.

#### Conclusions

There is a definite need to correct the sewage system operation as it now exists in Hager Hills Subdivision. Resolution of the problem should be jointly shared between the enforcement jurisdiction of NREPC and the Public Service Commission.

#### Recommendations

A joint action team should be formed between the Natural Resources and Environmental Protection Cabinet and the Kentucky Public Service Commission. This team would actively pursue utilities such as Suburban Treatment who have not complied with both State regulations and NREPC permit requirements.

KMN/jsb

DATA SUMMARY  
REQUEST FOR LEGAL ACTION

NAME: Sewage Treatment Facilities  
Paradise Village Subdivision  
Facility #01016014  
Johnson County, Kentucky

OWNER: Suburban Sewage Treatment, Inc.  
Paul Pelphrey - President

OPERATOR: Suburban Sewage Treatment, Inc.

MAILING ADDRESS: Paul Pelphrey, President  
Suburban Sewage Treatment, Inc.  
Route #11, Depot Road  
Paintsville, Kentucky 41240

INSPECTOR: Gene Blair, London/Hazard District office

VIOLATION: 401 KAR 5:005 Failure to meet permitted effluent limits

401 KAR 5:005 Failure to submit Discharge Monitoring Reports

401 KAR 5:010 Failure to operate sewage system under the  
the supervision of a certified operator

401 KAR 5:015 Failure to report bypasses

401 KAR 5:031 Allowed discharge which has degraded surface waters.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the Matter of:

THE KENTUCKY PUBLIC SERVICE COMMISSION )  
VS. ) CASE NO. 8814  
SUBURBAN SEWAGE TREATMENT, INC. )

O R D E R

On January 12, 1983, the Commission sent to Suburban Sewage Treatment, Inc., ("Suburban") a request for information on the operations of sewage treatment facilities in Johnson County, Kentucky. Suburban did not respond, and the matter was set for hearing on May 5, 1983.

The Commission, having determined that further investigation was necessary, ordered the May 5, 1983, hearing cancelled. The case was continued generally subject to further investigation by the Commission.

Commentary

A member of the staff of this Commission made an investigation of Suburban's facilities and operations on June 22, 1983. The report ("Staff Report") made as a result of this investigation is included herein as Appendix A.

Suburban's facilities were constructed about 12 years ago to serve the Hager Hill Subdivision. These facilities were constructed by Mr. Wayne T. Morgan on land owned by Mr. Paul Pelphrey. Mr. Morgan died approximately 5 years ago and Mr. Gene

Gray took over the operation and maintenance after Mr. Morgan's death. Approximately 3 years ago Mr. Gray moved away from the area and Mr. Pelphrey took over the operation and maintenance. Mr. Pelphrey has been collecting the revenue and paying the expenses associated with Suburban during this 3-year period. In 1979 Mr. Pelphrey entered into an Agreed Order with the Natural Resources and Environmental Protection Cabinet to correct known deficiencies in Suburban's sewage treatment facilities. Also as part of this Agreed Order Mr. Pelphrey was to form a sanitation district and obtain the necessary approvals from this Commission. As of this date no request has been received from Mr. Pelphrey or Suburban.

Suburban, which presently serves 16 homes, has numerous operational deficiencies and does not properly treat the sewage it receives.

#### Findings

The Commission, having reviewed the evidence of record and being advised, is of the opinion and finds that:

1. Suburban provides sewage treatment services to 16 homes in the Hager Hill Subdivision. Suburban is operated and maintained by Mr. Paul Pelphrey. Mr. Pelphrey collects revenue for services received from Suburban and pays expenses for Suburban. The Commission finds this revenue to be compensation for Suburban for utility service provided by Suburban as defined by KRS 278.010. Further, under KRS 278.010, Suburban should be classified as a public utility subject to the jurisdiction of this Commission.

2. Suburban as a jurisdictional utility should have obtained Commission approval prior to the construction of its sewage treatment facilities. Suburban has neither sought nor received approval in the past.

3. Suburban as a jurisdictional utility should have obtained Commission approval prior to charging rates for sewage treatment services. Suburban has neither sought nor received approval in the past.

4. Suburban as a jurisdictional utility should provide adequate service as required by 807 KAR 5:071, Section 5(1). Commission investigation has determined that Suburban's sewage treatment facilities are not in compliance with 807 KAR 5:071, Section 5(1).

IT IS THEREFORE ORDERED that Suburban shall obtain the approval of this Commission prior to performing any future construction which is governed by KRS 278.020.

IT IS FURTHER ORDERED that within 30 days of the date of this Order Suburban shall file tariff sheets setting out its rates for approval by this Commission.

IT IS FURTHER ORDERED that within 30 days of the date of this Order Suburban shall file a detailed plan of correction outlining repairs, improvements, time frames, etc., needed to bring its sewage treatment facilities into compliance with 807 KAR 5:071, Section 5(1).

IT IS FURTHER ORDERED that Suburban be and it hereby is advised that the Commission will consider levying penalties against Suburban in accordance with KRS 278.990 for non-compliance with this Order.

Done at Frankfort, Kentucky, this 13th day of October, 1983.

By the Commission

ATTEST:

\_\_\_\_\_  
Secretary

**MEMORANDUM**

**TO:** Carl Breeding, General Counsel  
Office of General Counsel

**THRU:** T. Michael Taimi, Commissioner *T. Michael Taimi*  
Department for Environmental Protection

**THRU:** Richard T. Shogren, Director *RS*  
Division of Water

**FROM:** Clyde P. Baldwin, P.E. *CPB*  
Environmental Engineer Branch Manager  
Enforcement Branch

**DATE:** November 21, 1983

**SUBJECT:** Suburban Sewage Treatment, Inc.  
Johnson County, Kentucky

Attached please find pertinent information and a summary of events leading to this request for legal action. The Division of Water has reviewed this case and believes that legal action is justified.

CPB:RJB:lcc

Attachment

HEARING SCHEDULE  
PUBLIC SERVICE COMMISSION  
APRIL, 1984

April 3, 1984 - 10:30 a.m.  
Case No. 8983 - Warren County Water District

Warren County seeks a certificate of public convenience and necessity to construct a waterworks construction project.

April 3, 1984 - 1:00 p.m.  
Case No. 8905 - Wood Creek Water District

Wood Creek seeks a certificate of public convenience and necessity to construct a waterworks construction project.

April 4, 1984 - 10:00 a.m.  
Case No. 8991 - PSC v. Magoffin Gas

A hearing to show cause, if any it can, why Magoffin Gas should not be subject to the penalties prescribed under KRS 278.990 and KRS 278.992 for non-compliance with existing rules and regulations.

April 4, 1984 - 1:30 p.m.  
Case No. 8950 - Edmonson County Water District

Edmonson County seeks a certificate of public convenience and necessity to construct a waterworks construction project and an increase in rates. The average monthly bill will go from \$7.75 to \$8.75.

April 5, 1984 - 10:00 a.m.  
Case No. 8859 - General Telephone Company

A rehearing to consider the impact upon the level of revenues and customer rates as a result of technical omissions.

April 5, 1984 - 10:00 a.m.  
Case No. 8990 - Flora v. South Woodford County Water District  
Hearing Room #2

A public hearing to show cause, if any it can, why its meter size requirements and method of billing farm customers should be continued.



April 6, 1984 - 10:00 a.m.  
Case No. 8927 - Marrowbone Creek Water District

A public hearing for the purpose of considering the permanent rate request of Marrowbone.

April 10, 1984 - 9:00 a.m.  
Case Nos. 8847 & 8879 - South Central Bell Telephone Company

A rehearing on certain issues of general rate case including the adjustment to the Company's revenue requirements for complex inside wiring, aspects of customer premises equipment and tariff price out.

April 12, 1984 - 10:00 a.m.  
Case No. 8966 - Johnson County Gas and Jupiter Gas Company

A hearing for the Commission to consider the acquisition of Johnson County Gas by Jupiter Gas.

April 17, 1984 - 9:30 a.m.  
Case No. 8994 - South Central Bell Telephone Company

A hearing for South Central Bell to present testimony for complaints concerning the reasonableness of charges quoted by Bell and the fact that Bell is the only entity permitted to construct telephone facilities to be connected to its system.

April 19, 1984 - 1:00 p.m.  
Case No. 8965 - Harlan County Water Districts Merger - in Harlan, Kentucky

A hearing in Harlan for the purpose of considering the proposed merger of the Green Hills Water District, Black Mountain Water District, Cawood Water District, and Wallins Creek Water District

April 23, 1984 - 1:30 p.m.  
Case No. 8960 - Carroll County Water District No. 1

Carroll County seeks a certificate of public convenience and necessity to construct a waterworks construction project and an increase in rates. The average monthly bill will go from \$10.37 to \$17.60.

April 26, 1984 - 1:00 p.m.

Case No. 8814 - PSC vs. Suburban Sewage Treatment, Inc.

A hearing for Suburban Sewage to show cause, if any it can, why it should not be subject to the penalties prescribed in KRS 278.990 for failure to comply with the Commission's regulations.

*Also known as  
Paradise Village  
Subdivision*

*Case at  
OGC  
RTB's*

All of the above hearings will be held in the Commission's offices, Frankfort, Kentucky except for the Hearing scheduled April 19, Case No. 8965, Harlan County Water Districts Merger will be held in the District Courtroom, 2nd Floor, Harlan County Courthouse, Central Street, Harlan, Kentucky. Case No. 8990, Flora v. South Woodford County Water District will be held in Hearing Room #2.

HEARING SCHEDULE  
PUBLIC SERVICE COMMISSION  
JUNE, 1984

June 4, 1984 - 10:00 a.m.  
Case No. 8933 - Barbour Manor Utilities

A hearing for approval of sale and transfer of assets. Barbour Manor seeks to increase its annual revenues by \$46,978. The average monthly bill will go from \$9.28 to \$14.55.

June 4, 1984 - 1:00 p.m.  
Case No. 8934 - Tree-Line Utilities

Tree-Line seeks approval of sale and purchase of assets and certificate of convenience and necessity to construct, to issue notes and to finance construction. Tree-Line seeks to increase its annual revenues by \$29,438. The average monthly bill will go from \$11.00 to \$33.77.

June 5, 1984 - 9:00 a.m.  
Case No. 9048 - Louisville CGSA

A hearing for the issuance of a certificate of public convenience and necessity to provide a new domestic public cellular radio telecommunications service to the public in the greater Louisville Metropolitan area including all, or parts of, Jefferson, Bullitt, Spencer, Shelby, Oldham, Trimble and Henry Counties in Kentucky and Floyd, Clark and Harrison Counties in Indiana.

June 6, 1984 - 10:30 a.m.  
Case No. 9017 - Columbia Gas

A hearing for Auxier Road Gas Company to appear and present testimony relative to the request of Columbia Gas to terminate Auxier's gas service.

June 6, 1984 - 1:00 p.m.  
Case No. 8999 - Formation of Black Mountain Utility District  
Hearing Room No. 2

A hearing to determine the need for the formation of the Black Mountain Utility District for the Residents of Harlan County, Kentucky.

June 7, 1984 - 1:00 p.m.

Case No. 8814 - PSC v. Suburban Sewage Treatment, Inc.

A hearing for Suburban Sewage to present testimony why it should not be subject to the penalties prescribed in KRS 278.990 for failure to comply with the Commission's regulations.

June 8, 1984 - 10:00 a.m.

Case Nos. 8973, 8982 9024 - KCTA v. SCB, GenTel & Cin. Bell

A formal conference to discuss issues prior to the hearing (June 26).

June 12, 1984 - 1:00 p.m.

Case No. 8977 - Multi-Page, Inc.

Hearing Room No. 2

Multi-Page seeks a certificate of public convenience and necessity to expand services to the public in the counties of Henderson and Christian, Kentucky.

June 13, 1984 - 10:00 a.m.

Case No. 8966 - Johnson County Gas and Jupiter Gas Company

A hearing for the Commission to consider the acquisition of Johnson County Gas by Jupiter Gas.

June 13, 1984 - 1:00 p.m.

Case No. 9035 - J. & D. Murphy vs. Kentucky Utilities Company

Hearing Room No. 2

A hearing for the Complaint to discuss the discontinuance of electric service.

June 14, 1984 - 10:00 a.m.

Case No. 8891 - Columbia Gas of Kentucky

A hearing for Martin Gas Company to appear and present testimony relative to the request of Columbia Gas to terminate Martin's gas service.

June 26, 1984 - 9:30 a.m.

Case No. 8973, 8982, 9024 - KCTA v. SCB, GenTel & Cin. Bell

A hearing for the implementation of the methodology previously established by the Commission for the determination of CATV Pole Attachment Rates.

All of the above hearings will be held in the Commission's offices, Frankfort, Kentucky except Case No. 8999, Formation of Black Mountain Utility District, Case No. 8977, Multi-Page, Inc., and Case No. 9035, Murphy vs. Kentucky Utilities.

CHARLOTTE E. BALDWIN  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**

CARL W. BREEDING  
GENERAL COUNSEL  
OFFICE OF GENERAL COUNSEL  
FIFTH FLOOR, CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: (502) 564-5576

M E M O R A N D U M

TO: Jim Mitchell *Jim*  
Enforcement Branch  
Division of Water

ATTN: Bob Banks  
Enforcement Branch  
Division of Water

FROM: Kathryn M. Hargraves *KM*  
Attorney

DATE: June 13, 1984

RE: Suburban Sewage Treatment Plant  
(Paul Pelphrey)

I am in the process of preparing an administrative complaint on Suburban Sewage Treatment Plant. However, I am having some problems since we have somewhat limited evidence that Paul Pelphrey is indeed the owner and operator of the plant. So far I have contacted the Secretary of State to check the archives maintained there, and have sent letters to the local complainants, to see what information they have. I have also made arrangements to have a property records search made in Johnson County, since a member of our office is from Paintsville. In the next couple of weeks I hope to have an answer on who to name in the administrative complaint. If you could help me on these I would appreciate it.

There are also some other things that I need to take care of before filing a complaint. Following is a list of questions which I would like to have resolved before filing the administrative complaint.

1. Has the sewage treatment plant ever had a certified operator?
2. I note that there was an operating permit issued on July 15, 1980, but I understand that the plant is much older. Was an application for a construction permit ever submitted? If not, why was an operating permit issued so much later after the plant was in existence? Is this a violation which you feel is appropriate to include in the administrative complaint?

Memo to Jim Mitchell  
June 13, 1984  
Page 2

3. Have any discharge monitoring reports ever been submitted? If so, please give the dates. *no*
4. This facility has also failed to obtain a KPDES permit. Is this a violation which you feel would be appropriate to include in an administrative *✓ 5* complaint?
5. Was sampling of the effluent ever conducted? If so, when, by whom, and where are the lab reports?
6. In order to allege that the operator has failed to report by-passes, I must have the dates on which those by-passes occurred. Is such information available?
7. Was degradation of the receiving stream noted on each date the inspections were made? I show inspections being made on the following dates:  
  
11-29-78  
12-28-78  
2-23-79  
4-3-79  
10-16-79  
6-24-82  
8-3-82  
12-3-82  
9-27-83  
9-30-83

Have any subsequent inspections been made? If not, we should schedule one within the next few weeks, so that I can determine whether or not these are continuing violations.

KMH/cmh

cc: Gene Blair  
Division of Water, London Office

CHARLOTTE E. BALDWIN  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FORT BOONE PLAZA  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

**MEMORANDUM**

TO: Carl VanCleve, Director  
Division of Plumbing  
Department of Housing, Buildings & Construction

FROM: Richard T. Shogren, Director *RTS*  
Division of Water  
Department for Environmental Protection

DATE: June 20, 1984

SUBJECT: Wastewater Treatment Facilities  
Suburban Sewage Treatment Plant  
Paradise Village Subdivision  
Hager Hill, Johnson County, Kentucky

This memorandum is to request that the Division of Plumbing, in accordance with its laws and regulations, cease to issue plumbing permits for any construction that might increase wasteload at the above-referenced facilities.

It has been determined by the Division of Water that the referenced facilities are inoperable.

Should you have any questions regarding this request, please contact Robert J. Banks at (502) 564-3410, extension 496. Thank you for your attention to this matter.

RTS/RJB/cdh

cc: London/Hazard District Office  
Construction Grants Branch



COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION  
DIVISION OF PLUMBING

U.S. 127 SOUTH  
FRANKFORT, KENTUCKY 40601  
(502) 564-3580

MARTHA LAYNE COLLINS  
GOVERNOR

CARL VANCLEVE  
DIRECTOR

June 27, 1984

M E M O R A N D U M

TO: Stanley Hibbitts

FROM: Carl VanCleve *CV*  
Director  
Division of Plumbing

SUBJECT: Wastewater Treatment Facilities  
Suburban Sewage Treatment Plant  
Paradise Village Subdivision  
Hager Hill, Johnson County, Kentucky

Attached is a copy of a memorandum from Mr. Richard Shogren concerning the above referenced subdivision. In response to this memorandum, please do not issued any plumbing permits for any new construction or alterations that increase the waste load on this project. Should you have any questions, please call me.

CV/jg

Attachment

cc. Richard Shogren, Division of Water ✓



COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

**FILED**  
JUL 11 1984  
OFFICE OF  
GENERAL COUNSEL

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS. ADMINISTRATIVE COMPLAINT

PAUL PELPHREY  
AND  
JUSTENE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

DEFENDANTS

SERVE: Paul Pelphrey  
409 Broadway  
Paintsville, Kentucky 41240  
  
Justene Pelphrey  
409 Broadway  
Paintsville, Kentucky 41240

\* \* \* \* \*

The Plaintiff, Natural Resources and Environmental Protection Cabinet, by counsel, states the following for its Administrative Complaint against the Defendants Paul and Justene Pelphrey:

1. The Natural Resources and Environmental Protection Cabinet (Cabinet) has been granted statutory authority pursuant to KRS Chapter 224 to protect the waters of the Commonwealth from pollutants and to regulate the ownership and operation of sewage treatment facilities, and has promulgated regulations pursuant to that statutory authority.

2. Paul and Justene Pelphrey (Defendants) have owned and operated a sewage treatment plant in Johnson County at Paradise

Valley Subdivision known as the Suburban Sewage Treatment Plant since approximately 1971.

3. Since that time the Defendants have attempted at periodic intervals to maintain and repair the sewage treatment plant and have received revenues from the residents of Paradise Valley in exchange for services supplied by that sewage treatment plant.

4. The Cabinet issued an operating permit to an entity known as "Suburban Sewage Incorporated" on July 15, 1980 but the entity known as "Suburban Sewage Incorporated" is not currently and has never been registered with the Secretary of State for the Commonwealth of Kentucky, and consequently never received corporate status.

5. This permit was issued with certain effluent limitations and operating conditions, which incorporated by reference the applicable requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto.

6. Suburban Sewage Incorporated is a proprietorship owned by the Defendants.

7. The Defendants continue to operate the plant as Suburban Sewage Treatment Plant Incorporated, although that entity is also not registered as a corporation with the Secretary of State.

#### COUNT I

8. The Defendants have operated the sewage treatment plant without obtaining the supervision of a certified operator, in violation of KRS 224.060 and 401 KAR 5:010, since the date the plant went into operation.

9. The Defendants failed to obtain a permit from the Cabinet prior to constructing the plant and beginning its operation, in violation of KRS 224.060 and 401 KAR 5:005.

10. The Defendants have failed to submit discharge monitoring reports as required by the permit issued July 15, 1980, in violation of KRS 224.060 and 401 KAR 5:005.

11. The Defendants have failed to obtain a KPDES permit for the sewage treatment plant, which permit was required effective September 30, 1983, in violation of KRS 224.060 and 401 KAR 5:055.

12. The violations set forth above in Count I are continuing violations, and continue to this date.

#### COUNT II

13. The Defendants have violated the following performance standards:

- a. The Defendants failed to meet allowable effluent limitations, in violation of KRS 224.060, 401 KAR 5:005, and 401 KAR 5:065;
- b. The Defendants failed to report bypasses from the sewage treatment plant, in violation of KRS 224.060, 401 KAR 5:015, and 401 KAR 5:065;
- c. The Defendants failed to maintain the plant in a manner to assure compliance with water quality standards, in violation of KRS 224.060 and 401 KAR 5:005;
- d. The Defendants failed to protect the ambient water quality of the receiving waters, in violation of KRS 224.060, 401 KAR 5:031, and 401 KAR 5:065.

14. The violations in Paragraph 13 above were observed by authorized agents of the Cabinet on the following dates:

- a. November 22, 1978;
- b. December 22, 1978;
- c. February 23, 1979;
- d. October 16, 1979;
- e. June 24, 1982;
- f. August 3, 1982;
- g. December 3, 1982;
- h. September 27, 1983.

(Copies of Inspection Reports for subparagraphs d through h are attached as Cabinet's Exhibits 1 through 5.)

15. The residents of Paradise Valley have also observed violations at the plant since it began operating, on dates continuing to the present.

16. The violations set forth in Count II are continuing violations, and continue to this date.

### COUNT III

17. On November 14, 1979 the Defendant Paul Pelphrey signed an Agreed Order with the Cabinet in which the entity known as Suburban Sewage agreed to undertake remedial measures at the sewage treatment plant and to create a sanitation district for managing the sewage treatment plant, which order has not been complied with by the Defendant Paul Pelphrey. (A copy of the Agreed Order is attached as Plaintiff's Exhibit 6.)

WHEREFORE, the Cabinet prays for the following relief:

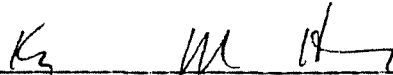
1. That the Defendant Paul Pelphrey be assessed a one thousand dollar (\$1,000) civil penalty pursuant to KRS 224.994(8) for failure to comply with the Agreed Order dated November 14, 1979.

2. That the Defendants Paul and Justene Pelphrey each be assessed a civil penalty of ten thousand dollars (\$10,000) for each day all other violations continued, pursuant to KRS 224.994(1).

3. That the Defendants Paul and Justene Pelphrey be required to upgrade and maintain the sewage treatment plant in such a way as to assure compliance with all necessary administrative requirements and performance standards, or to relinquish their control of the sewage treatment plant and to transfer that ownership to an entity capable of properly maintaining the plant.

4. That the Cabinet be awarded all other relief to which it is entitled.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

  
KATHRYN M. HARGRAVES  
Office of General Counsel  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601  
(502) 564-5576

COUNSEL FOR PLAINTIFF

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

ADMINISTRATIVE SUMMONS  
AND  
ORDER SETTING PRETRIAL CONFERENCE

**FILED**

JUL 11 1984

OFFICE OF  
GENERAL COUNSEL

PAUL PELPHREY  
AND  
JUSTENE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

DEFENDANTS

\* \* \* \* \*

You are hereby advised that a pretrial conference is hereby set in the above case to be held Thursday, August 2, 1984, at the hour of 10:00 a.m. This pretrial conference will take place in Room G-I of the Capital Plaza Tower, Frankfort, Kentucky. Your failure to appear either in person or by counsel may result in a decision adverse to your position.

The Hearing Officer will be the Honorable J. Gregg Clendenin, 217 N. Upper Street, Lexington, Kentucky 40507.

A formal administrative hearing will be scheduled during the pretrial conference for a date as agreed to by all parties. Pursuant to KRS 224.081(1) and 224.083 this hearing will be held before the Cabinet so that said Defendant may have an opportunity to respond to the allegations in the Complaint in the manner provided

in KRS 224.081(1). The hearing will be conducted pursuant to: 400 KAR 1:030; 400 KAR 1:040; and 400 KAR 1:050, which were effective November 1, 1983.

YOU ARE HEREBY ADVISED THAT THIS HEARING WILL BE AN ADVERSARY PROCEEDING. You have the right to be represented by counsel. Individuals representing their own interests have the right to introduce evidence in their behalf, and the right to cross-examine witnesses who may testify against them; however, all corporate defendants must be represented by counsel pursuant to Supreme Court Rule 3.020. Individuals not licensed to practice law in the Commonwealth of Kentucky may appear on behalf of other individuals or entities as a witness for the sole purpose of providing testimony. The formal hearing proceedings will be recorded and a transcript may be made; this transcript may be used in any subsequent court action involving this matter.

Pleadings, motions, or other documents may be filed prior to this hearing by forwarding them to the Docket Coordinator, Office of General Counsel, Natural Resources and Environmental Protection Cabinet, Fifth Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

The parties through counsel are ORDERED to bring to the pretrial conference:

(1) Lists containing the names and addresses of all expert and lay witnesses expected to be relied upon at the formal hearing, other than witnesses intended to be used solely for the purpose

of impeachment or rebuttal. The names and addresses of witnesses discovered subsequent to such exchange of lists shall be furnished to opposing counsel forthwith upon discovery.

(2) All items intended to be offered as exhibits.

(3) Lists of proposed stipulations of the issues, undisputed facts, authenticity and admissibility of exhibits, and any and all other matters which will expedite the formal hearing of the cause by reducing formal proof.

(4) Suggestions as to the order in which the formal hearing proceedings are to take place.

Each party should be represented at the conference by the attorney who expects to try the case. Pending motions, if not ruled upon sooner, will be disposed of at the conference.

ALL OF WHICH IS CONSIDERED AND ORDERED this 11<sup>th</sup> day of July, 1984.

CHARLOTTE E. BALDWIN, SECRETARY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

Rita A. Hardin  
Docket Coordinator



CERTIFICATION

I hereby certify that a true copy of the foregoing ORDER was mailed, certified, postage prepaid, to the following this the 11<sup>th</sup> day of July, 1984:

Paul Pelphrey  
409 Broadway  
Paintsville, Kentucky 41240

Justene Pelphrey  
409 Broadway  
Paintsville, Kentucky 41240

and hand delivered to:

Hon. Kathryn M. Hargraves  
Natural Resources and  
Environmental Protection Cabinet  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601

Rita A. Hardin  
Docket Coordinator

DISTRIBUTION:

Division of Water  
Hearing Officer - J. Gregg Clendenin

Dewey L. Bocook, Jr.  
419 Broadway  
Paintsville, Kentucky 41240


Henry Lyons  
Paradise Valley  
Hager Hill, Kentucky 41222

Floyd Gray  
Paradise Valley  
Hager Hill, Kentucky 41222

SEVENTH: The name and address of the incorporator is as follows:

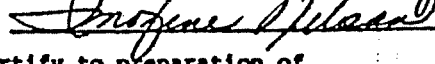
Dewey L. Bocook, Jr.  
Main Street  
P. O. Box 668  
Paintsville, Kentucky 41240

IN TESTIMONY WHEREOF, witness the signature of the incorporator, this 31 day of July, 1984.

  
DEWEY L. BOCOOK, JR.

Subscribed and sworn to before me, this 31 day of July, 1984, by Dewey L. Bocook, Jr.

My Commission Expires: May 14, 1986

 Notary Public.

I certify to preparation of the foregoing Articles of Incorporation.

JOHNSON & JOHNSON & PHILLIPS  
ATTORNEYS AT LAW  
P. O. BOX 668  
PAINTSVILLE, KY 41240  
(Telephone: (606) 789-4550)

BY:   
DALE PHILLIPS, P. S. C.

STATE OF KENTUCKY  
COUNTY OF JOHNSON

I, BETTY JO CONLEY, CLERK of the County Court for the County and State aforesaid, do certify that the foregoing Art. of INC. was on the 10th day of AUGUST, 1984; lodged in my office for record, Whereupon the same has been duly recorded.

Given under my hand this the 10th day of AUGUST, 1984

BETTY JO CONLEY Clerk  
By: \_\_\_\_\_ D. C.

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

**FILED**  
AUG 6 1984  
OFFICE OF  
GENERAL COUNSEL

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

MOTION FOR LEAVE TO FILE  
AMENDED ADMINISTRATIVE COMPLAINT

PAUL PELPHREY AND  
JUSTENE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

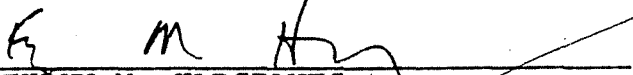
DEFENDANTS

\* \* \* \* \*

The Plaintiff, Natural Resources and Environmental Protection Cabinet, by counsel, submits its Motion for Leave to File Amended Administrative Complaint, pursuant to CR 15. The Cabinet states that the facts presented to it indicate that the requested relief is necessary for a full adjudication and the Cabinet further states that no responsive pleading has been received from either Defendant in this case.

WHEREFORE, the Cabinet moves that the Amended Administrative Complaint tendered this date be introduced into the record by the Hearing Officer.

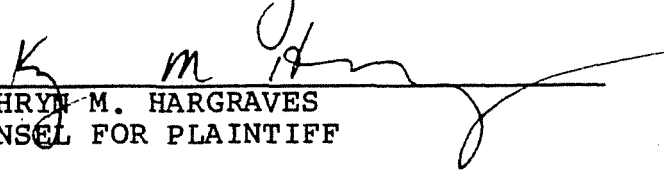
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

  
KATHRYN M. HARGRAVES  
Office of General Counsel  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601  
(502) 564-5576

COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing MOTION ~~hand-delivered~~ *was mailed* to Paul Pelphrey and Justene Pelphrey this 6th day of Aug., 1984.

  
KATHRYN M. HARGRAVES  
COUNSEL FOR PLAINTIFF

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

*Jim - note  
amended  
complaint -  
live mention  
it to Bob*

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

ADMINISTRATIVE SUMMONS  
AND  
ORDER SETTING PRETRIAL CONFERENCE

**FILED**

AUG 8 1984

PAUL PELPHREY  
AND  
JUSTENE PELPHREY  
(d/b/a Suburban Sewage Treatment Plant)

OFFICE OF  
GENERAL COUNSEL

DEFENDANTS

\* \* \* \* \*

You are hereby advised that a pretrial conference is hereby set in the above case to be held Monday, August 27, 1984, at the hour of 1:00 p.m. This pretrial conference will take place in Room G-1 of the Capital Plaza Tower, Frankfort, Kentucky. Your failure to appear either in person or by counsel may result in a decision adverse to your position.

The Hearing Officer will be the Honorable J. Gregg Clendenin, 217 N. Upper Street, Lexington, Kentucky 40507.

A formal administrative hearing will be scheduled during the pretrial conference for a date as agreed to by all parties. Pursuant to KRS 224.081(1) and 224.083 this hearing will be held before the Cabinet so that said Defendants may have an opportunity to respond to the allegations in the Complaint in the manner provided

in KRS 224.081(1). The hearing will be conducted pursuant to: 400 KAR 1:030; 400 KAR 1:040; and 400 KAR 1:050, which were effective November 1, 1983.

YOU ARE HEREBY ADVISED THAT THIS HEARING WILL BE AN ADVERSARY PROCEEDING. You have the right to be represented by counsel. Individuals representing their own interests have the right to introduce evidence in their behalf, and the right to cross-examine witnesses who may testify against them; however, all corporate defendants must be represented by counsel pursuant to Supreme Court Rule 3.020. Individuals not licensed to practice law in the Commonwealth of Kentucky may appear on behalf of other individuals or entities as a witness for the sole purpose of providing testimony. The formal hearing proceedings will be recorded and a transcript may be made; this transcript may be used in any subsequent court action involving this matter.

Pleadings, motions, or other documents may be filed prior to this hearing by forwarding them to the Docket Coordinator, Office of General Counsel, Natural Resources and Environmental Protection Cabinet, Fifth Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

The parties through counsel are ORDERED to bring to the pretrial conference:

(1) Lists containing the names and addresses of all expert and lay witnesses expected to be relied upon at the formal hearing, other than witnesses intended to be used solely for the purpose

of impeachment or rebuttal. The names and addresses of witnesses discovered subsequent to such exchange of lists shall be furnished to opposing counsel forthwith upon discovery.

(2) All items intended to be offered as exhibits.

(3) Lists of proposed stipulations of the issues, undisputed facts, authenticity and admissibility of exhibits, and any and all other matters which will expedite the formal hearing of the cause by reducing formal proof.

(4) Suggestions as to the order in which the formal hearing proceedings are to take place.

Each party should be represented at the conference by the attorney who expects to try the case. Pending motions, if not ruled upon sooner, will be disposed of at the conference.

ALL OF WHICH IS CONSIDERED AND ORDERED this 8<sup>th</sup> day of August, 1984.

CHARLOTTE E. BALDWIN, SECRETARY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

Rita A. Hardin  
Docket Coordinator

CERTIFICATION

I hereby certify that a true copy of the foregoing ORDER, ADMINISTRATIVE COMPLAINT and AMENDED ADMINISTRATIVE COMPLAINT (with Motion) was mailed, certified, postage prepaid, to the following this the 8<sup>th</sup> day of August, 1984:

Sheriff, Johnson County  
Johnson County Courthouse  
Paintsville, Kentucky 41240  
(For service upon Paul Pelphrey,  
409 Broadway, Paintsville, Ky. 41240, and  
Justene Pelphrey, 409 Broadway,  
Paintsville, Kentucky 41240)

and hand delivered to:

Hon. Kathryn M. Hargraves  
Natural Resources and  
Environmental Protection Cabinet  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601

Rita A. Hardin  
Docket Coordinator

DISTRIBUTION:

Division of Water  
Hearing Officer - J. Gregg Clendenin



COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

AMENDED ADMINISTRATIVE COMPLAINT

---

PAUL PELPHREY  
AND  
JUSTENE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

DEFENDANTS

SERVE: Paul Pelphrey  
409 Broadway  
Paintsville, Kentucky 41240  
  
Justene Pelphrey  
409 Broadway  
Paintsville, Kentucky 41240

\* \* \* \* \*

The Plaintiff, Natural Resources and Environmental Protection Cabinet, by counsel, states the following for its Amended Administrative Complaint against the Defendants Paul and Justene Pelphrey:

1. The Natural Resources and Environmental Protection Cabinet (Cabinet) has been granted statutory authority pursuant to KRS Chapter 224 to protect the waters of the Commonwealth from pollutants and to regulate the ownership and operation of sewage treatment facilities, and has promulgated regulations pursuant to that statutory authority.

2. Paul and Justene Pelphrey (Defendants) have owned and operated a sewage treatment plant in Johnson County at Paradise

Valley Subdivision known as the Suburban Sewage Treatment Plant since approximately 1971.

3. Since that time the Defendants have attempted at periodic intervals to maintain and repair the sewage treatment plant and have received revenues from the residents of Paradise Valley in exchange for services supplied by that sewage treatment plant.

4. The Cabinet issued an operating permit to an entity known as "Suburban Sewage Incorporated" on July 15, 1980 but the entity known as "Suburban Sewage Incorporated" is not currently and has never been registered with the Secretary of State for the Commonwealth of Kentucky, and consequently never received corporate status.

5. This permit was issued with certain effluent limitations and operating conditions, which incorporated by reference the applicable requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto.

6. Suburban Sewage Incorporated is a proprietorship owned by the Defendants.

7. The Defendants continue to operate the plant as Suburban Sewage Treatment Plant Incorporated, although that entity is also not registered as a corporation with the Secretary of State.

#### COUNT I

8. The Defendants have operated the sewage treatment plant without obtaining the supervision of a certified operator, in violation of KRS 224.060 and 401 KAR 5:010, since the date the plant went into operation.

9. The Defendants failed to obtain a permit from the Cabinet prior to constructing the plant and beginning its operation, in violation of KRS 224.060 and 401 KAR 5:005.

10. The Defendants have failed to submit discharge monitoring reports as required by the permit issued July 15, 1980, in violation of KRS 224.060 and 401 KAR 5:005.

11. The Defendants have failed to obtain a KPDES permit for the sewage treatment plant, which permit was required effective September 30, 1983, in violation of KRS 224.060 and 401 KAR 5:055.

12. The violations set forth above in Count I are continuing violations, and continue to this date.

#### COUNT II

13. The Defendants have violated the following performance standards:

- a. The Defendants failed to meet allowable effluent limitations, in violation of KRS 224.060, 401 KAR 5:005, and 401 KAR 5:065;
- b. The Defendants failed to report bypasses from the sewage treatment plant, in violation of KRS 224.060, 401 KAR 5:015, and 401 KAR 5:065;
- c. The Defendants failed to maintain the plant in a manner to assure compliance with water quality standards, in violation of KRS 224.060 and 401 KAR 5:005;
- d. The Defendants failed to protect the ambient water quality of the receiving waters, in violation of KRS 224.060, 401 KAR 5:031, and 401 KAR 5:065.

14. The violations in Paragraph 13 above were observed by authorized agents of the Cabinet on the following dates:

- a. November 22, 1978;
- b. December 22, 1978;
- c. February 23, 1979;
- d. October 16, 1979;
- e. June 24, 1982;
- f. August 3, 1982;
- g. December 3, 1982;
- h. September 27, 1983.

(Copies of Inspection Reports for subparagraphs d through h are attached as Cabinet's Exhibits 1 through 5.)

15. The residents of Paradise Valley have also observed violations at the plant since it began operating, on dates continuing to the present.

16. The violations set forth in Count II are continuing violations, and continue to this date.

### COUNT III

17. On November 14, 1979 the Defendant Paul Pelphrey signed an Agreed Order with the Cabinet in which the entity known as Suburban Sewage agreed to undertake remedial measures at the sewage treatment plant and to create a sanitation district for managing the sewage treatment plant, which order has not been complied with by the Defendant Paul Pelphrey. (A copy of the Agreed Order is attached as Plaintiff's Exhibit 6.)

COUNT IV

18. The Defendants own and operate the sewage treatment facility in a manner harmful to the public health and environment, and in contravention to the Cabinet's mandate to protect the public health and environment, and remedial measures are necessary to bring the facility into compliance.

WHEREFORE, the Cabinet prays for the following relief:

1. That the Defendant Paul Pelphrey be assessed a one thousand dollar (\$1,000) civil penalty pursuant to KRS 224.994(8) for failure to comply with the Agreed Order dated November 14, 1979.


2. That the Defendants Paul and Justene Pelphrey each be assessed a civil penalty of ten thousand dollars (\$10,000) for each day all other violations continued, pursuant to KRS 224.994(1).

3. That the Defendants Paul and Justene Pelphrey be required to upgrade and maintain the sewage treatment plant in such a way as to assure compliance with all necessary administrative requirements and performance standards, or to relinquish their control of the sewage treatment plant and to transfer that ownership to an entity capable of properly maintaining the plant.

4. That the Defendants Paul and Justene Pelphrey be ordered to abate the violations at the Suburban Sewage Treatment Plant and accompanying sewer lines, pursuant to KRS 224.033(18).

5. That the Cabinet be awarded all other relief to which it is entitled.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

  
KATHRYN M. HARGRAVES  
Office of General Counsel  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601  
(502) 564-5576

COUNSEL FOR PLAINTIFF

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

AUG 06 1984

*Dwight R. Davis*  
AV  
SECRETARY OF STATE

ARTICLES OF INCORPORATION  
OF  
PVSP, INC.

Pursuant to the requirements of Kentucky Revised Statutes, Chapter 273, Section 247, governing the organization of a non-stock, non-profit corporations, the undersigned incorporator of PVSP, Inc., has adopted the following Articles of Incorporation.

FIRST: The name of the corporation is PVSP, Inc..

SECOND: The corporation shall be a perpetual duration.

THIRD: The purposes of the corporation are the transaction of any and all lawful business for which corporations may be incorporated under Chapter 273 of the Kentucky Revised Statutes.

FOURTH: The corporation shall have one class of members.

FIFTH: The address of the initial registered office of the corporation shall be Main Street, P. O. Box 668, Paintsville, Kentucky 41240 and the resident agent of the corporation at said address shall be Dewey L. Bocook, Jr.

SIXTH: The initial number of directors shall be three (3) and the following directors are to serve until the annual meeting of the members or until their successors shall have been duly elected and qualified:

EUGENE C. RICE  
P. O. BOX 896

J. SCOTT PRESTON  
P. O. BOX 1361

LARRY G. BROWN  
P. O. BOX 1394

RICE, PRESTON, BROWN  
ATTORNEYS AT LAW  
232 SECOND STREET  
PAINTSVILLE, KENTUCKY 41240

(606) 789-8251  
(606) 789-7211

August 30, 1984

RECEIVED

SEP 04 1984

OFFICE OF  
GENERAL COUNSEL

Hon. Kathryn M. Hargraves  
Natural Resources & Environmental  
Protection Cabinet  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601

RE: Natural Resources & Environmental  
Protection Cabinet v. Paul &  
Justene Pelphrey  
File No. 3754-W-21

Dear Ms. Hargraves:

Please find enclosed copy of the Articles of Incorporation of Pleasant Valley Sewer Plant, Inc. As you can see by the filing dates of the corporation this took place prior to the Administrative Complaint being filed. Mr. Pelphrey was in consultation for a long time with the various residents trying to get someone to work with him. I do not have a copy of a lease arrangement with Mr. Morgan. I don't know if one exists but I will contact my client and attempt to get a copy to you as soon as possible if there is one.

In looking at my schedule I have a trial scheduled for October 18. That will probably take up quite a bit of time in preparing and I don't know if it will be more than one day or not. As for the 22nd through the 26th my schedule is fairly clear. I would like to have this scheduled later in the morning than at 9:00 because it is about a three hour drive from Paintsville to Frankfort and if possible I would like to have this matter set for something like 1:00 P.M. I don't believe there will be that much testimony to necessitate an all day hearing.



Page 2

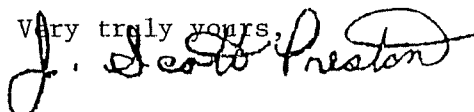
Ms. Kathryn M. Hargraves

August 30, 1984

If you need any further information please do not hesitate to contact me by phone or letter and I and my client will attempt to cooperate in any manner that we can.

Thank you very much for your consideration.

Very truly yours,



J. SCOTT PRESTON

JSP/das

cc: Hazard D.O.  
9-18-84 ✓

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

*Mitchell*

FILED

SEP 10 1984

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

OFFICE OF  
GENERAL COUNSEL  
PLAINTIFF

VS. ORDER SCHEDULING FORMAL HEARING

PAUL PELPHREY  
AND  
JUSTENE PELPHREY  
(d/b/a Suburban Sewage Treatment Plant)

DEFENDANTS

You are hereby advised that a Formal Hearing has been docketed in the above-styled matter for Monday, October 22, 1984, at the hour of 1:00 PM, in Room G-I on the ground floor of the Capital Plaza Tower, Frankfort, Kentucky 40601.

Ordered this the 10th day of September, 1984.

HON. J. GREGG CLENDENIN  
HEARING OFFICER

*Rita A. Hardin*  
DOCKET COORDINATOR

CERTIFICATION

I hereby certify that a true and accurate copy of the foregoing ORDER was mailed, postage prepaid, to the following this the 10th day of September, 1984:

J. Scott Preston, Esq.  
232 Second Street  
Paintsville, Kentucky 41240

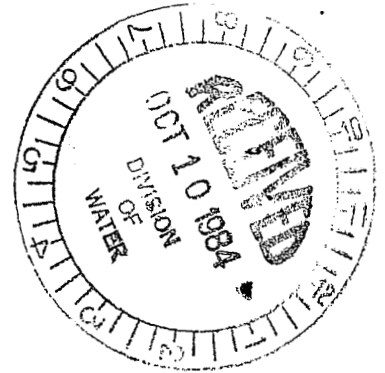
and hand-delivered to:

Hon. Kathryn M. Hargraves  
Office of General Counsel  
Capital Plaza Tower, 5th Floor  
Frankfort, Kentucky 40601

DISTRIBUTION: Hon. J. Gregg Clendenin  
Division of Water  
Vivian Lewis

*Rita A. Hardin*  
DOCKET COORDINATOR

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION



In the Matter of:

THE KENTUCKY PUBLIC SERVICE COMMISSION )  
vs. )  
SUBURBAN SEWAGE TREATMENT, INC. )

CASE NO. 8814

ORDER GRANTING REHEARING

On August 24, 1984, the Commission issued an Order finding that Paul and Justine Pelphrey were the owners of Suburban Sewage Treatment, Inc. The Pelphreys were then ordered to immediately begin steps to bring this utility into conformity with the Commission's rate and service regulations.

On September 14, 1984, Paul and Justice Pelphrey (through counsel) filed a motion for rehearing of the Commission's August 24, 1984, Order. Therein, the Pelphreys argue that they were denied due process at the evidentiary hearing in this matter since Mr. Pelphrey appeared at that hearing as a witness only, and at no time had the Pelphreys been put on notice that they might ultimately be held responsible for this sewage treatment plant.

Having considered the application for rehearing and being advised, the Commission finds that a further hearing in this matter should be held in order to give the Pelphreys the

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE KENTUCKY PUBLIC SERVICE COMMISSION	)	
	)	
vs.	)	CASE NO. 8814
	)	
SUBURBAN SEWAGE TREATMENT, INC.	)	

ORDER ON REHEARING

On August 24, 1984, the Commission issued an Order finding that Paul and Justine Pelphrey were the beneficial owners of Suburban Sewage Treatment, Inc., ("Suburban") and, as such, should be held responsible for maintaining the system so as to insure adequate service to the 16 residences served by the treatment plant. The Pelphreys sought rehearing of the August 24, 1984, Order. The Commission granted the request and a second evidentiary hearing was held on January 16, 1985.

On rehearing, the Pelphreys testified that the monthly charges paid by Suburban's customers are received by them, endorsed by either Justine or Paul Pelphrey, and deposited in the account for Mr. Pelphrey's home construction business, Paradise Homes. (Transcript, January 16, 1985, hearing, p. 11.) The remainder of the Pelphreys' testimony dealt with the history of how they more or less "inherited" the sewage plant upon the death of its original builder, and how they were trying to organize the

evidence from both hearings in this matter clearly shows that the Pelphreys are (1) maintaining the sewage treatment plant for the homeowners served by it (i.e., they are "providing the service") to 16 residences (the "public"), and receiving "compensation" for this service (the money from the residents comes to the Pelphreys and they deposit it in their account). As such, the Pelphreys clearly fall within the definition of a "sewer utility" as set forth in KRS 278.010(3)(f) -- "service..."to the public"...for "compensation." For these reasons, the Commission will sustain its original finding that Paul and Justine Pelphrey are the "possessors, operators, and beneficial owners of the sewer system known as Suburban." (August 24, 1984, Order, p. 6.)

As pointed out above, there was extensive discussion at the January 16, 1985, hearing regarding the efforts of the Pelphreys to encourage the residents served by the system to take over and operate it for their own benefit. Apparently these efforts have progressed to the point that the residents have now incorporated themselves into the Paradise Valley Sewage Plant, Inc. (Tr., p. 14.) The Commission commends the Pelphreys in initiating and encouraging this type of "self-help" action since a "homeowners association" is usually the best long term solution where "orphan" utility systems are involved. For this reason, the Commission will defer all filing requirements by the Pelphreys to this Commission normally required by sewer utilities until such time as a definite plan for operating the system by the homeowners has been completed and submitted to this Commission for approval.

CHARLOTTE E. BALDWIN  
SECRETARY



Mitchell  
Pls advise  
MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

CARL W. BREEDING  
GENERAL COUNSEL  
OFFICE OF GENERAL COUNSEL  
FIFTH FLOOR, CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: (502) 564-5576

M E M O R A N D U M

TO: William C. Eddins, Manager  
Enforcement Branch  
Division of Water *use*

FROM: Kathryn M. Hargraves *ky*  
Attorney

DATE: October 26, 1984

RE: Suburban Sewage Treatment  
(Paul & Justene Pelphrey)

On October 22, 1984, I took the depositions of Paul Pelphrey, Justene Pelphrey, and some of the concerned citizens living near the Suburban Sewage Treatment Plant. I wanted to let you know what Pelphrey's position is, and also tell you that his attorney has asked me to present to him a settlement offer. I would also like to use this memo to inform Gene Blair of the situation, and ask him to do a couple of things.

First, Paul Pelphrey's position appears to be that although he owns the property on which the plant sits, that a man named Wayne Morgan leased the site from Pelphrey in order to construct the plant. Pelphrey contends that Morgan, who is allegedly deceased, was the individual responsible for operating the plant. He stated that he did not endorse any checks sent to Suburban Sewage Treatment, although later testimony of some of the local residents indicated that he did. Copies of their cancelled checks were placed in the record. Pelphrey and his wife later acknowledged that they did receive money from the residents, but insisted that they merely received the money for Wayne Morgan, since they had a convenient business address where bills could be paid. Pelphrey says that he has no copy of the lease, but he does have copies of checks given to him by Morgan as rent for the property in question.

William C. Eddins  
October 26, 1984  
Page Two

Apparently there are two Wayne Morgans, one of whom is dead and the other of whom is living. There may also be a third Wayne Morgan who is now living in Florida. If Gene Blair knows any people living around Paintsville, maybe he could inquire as to whether anyone knows a Wayne Morgan. I think it may be important to track down this individual, if he is indeed still living.

The Pelphreys also contended that the wives living in the subdivision were ignorant of the fact that their husbands were involved in a type of citizens group designed to run the plant as a volunteer organization. Pelphrey also suggested that the repairs undertaken by the local residents were done in a neighborly sort of way, and that Pelphrey's contributions were made in this same nature.

One comment of interest was that Pelphrey maintained he did not know who took care of the plant on a daily basis, but he understood that it was a "state inspector" who actually ran the plant. I questioned him on this, and suggested that he was confused about the duties of the state inspector, but he insisted that he understood that the state inspector was actually hired to maintain the plant. This may be something Gene will want to look into, although I can't imagine what it is that Pelphrey is referring to.

Justene Pelphrey indicated that she has had the electric service shut off to the plant, and the Pelphreys' attorney advised me after the depositions were over that the Pelphreys intend to tell the residents that they are shutting down the system, and will force the residents to put in individual sewage treatment systems of their own. I suggested to Pelphrey's attorney that he might want to talk to the Public Service Commission about that, since it may not be so easy to get out from under a public utility once created. I mentioned this to Larry Updike by telephone.

I would like to ask Gene to do a couple of things. First of all, I would like for him to visit the site and take a series of photographs extending from the package plant itself, into the drainage ditch, and continue taking photographs a little ways up the drainage ditch on the other side of the street and downstream also. I would also like for him to take a water sample of the effluent leaving the plant, and a sample of the stream on the other side of the street. It might be wise to do both an upstream and a downstream sample. One other thing Gene may want to look into is that Pelphrey contended that there were

William C. Eddins  
October 26, 1984  
Page Three

as many as five (5) septic tanks in the area which were discharging into the same stream. I don't see how this can be accurate from a technical basis, but it might not hurt to find out if anybody's got septic tanks in the area. Also, if Gene knows any of the residents down there, he might want to talk informally with some of the husbands. I have been meeting with the wives, and I just want to make sure that there is not a communication gap between the husbands and the wives.

Finally, Pelphrey's attorney and I had a frank discussion after the depositions closed and all the witnesses left. I told him that I didn't think the Pelphreys would get very far by asserting that they were part of a volunteer organization, and that the statutes and regulations would apply to their operation, even if only by virtue of their owning the site. I suggested that the Division of Water would probably want three aspects to a settlement: a clean-up of the site, a civil penalty, and a posting of some kind of performance bond to guarantee that the remedial measures are undertaken. Pelphrey's attorney indicated to me that the Pelphreys were willing to undertake a clean-up and probably to post the performance bond, but he said that they would not be willing to pay a civil penalty. If you could get back to me with a settlement offer, I would appreciate it. One thing we might want to bear in mind is that I understand the plant itself is nearing the end of its useful life, so it might be wise to get an estimate from Gene as to whether the plant itself will need to be replaced or whether repairs will be sufficient. Based on that information, we can better determine how much bond and how much civil penalty to seek.

It seems to me when I spoke with Bob Banks about this case before, he mentioned a twenty thousand dollar (\$20,000) penalty and clean-up of the facility. I feel I can say with certainty that the Pelphreys will not accept a twenty thousand dollar (\$20,000) penalty. However, if that is what the division wants to present, I will certainly do so.

KMH/rrb

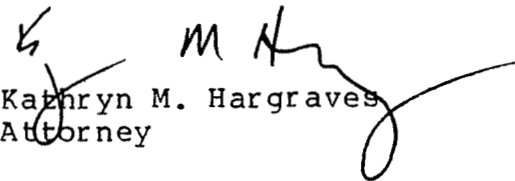
cc: Gene Blair



J. Scott Preston  
Page Two  
January 10, 1985

Please feel free to give me a call should we need to discuss this.

Sincerely,

  
Kathryn M. Hargraves  
Attorney

KMH/pjp

cc: Wm. C. Eddins  
Gene Blair

CHARLOTTE E. BALDWIN  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**

CARL W. BREEDING  
GENERAL COUNSEL  
OFFICE OF GENERAL COUNSEL  
FIFTH FLOOR, CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: (502) 564-5576

January 10, 1985

J. Scott Preston, Esq.  
232 Second Street  
Paintsville, Kentucky 41240

RE: Natural Resources and  
Environmental Protection Cabinet  
vs. Paul Pelphrey and Justene Pelphrey  
(d/b/a Suburban Sewage Treatment Plant),  
File No. 3754-W-21

Dear Mr. Preston:

After taking the depositions in Paintsville on October 22, 1984, I spoke with representatives of the Division of Water about the possibility of offering a settlement of this case to Mr. and Mrs. Pelphrey. I am authorized to convey the Division of Water's offer of settlement as follows. If the Pelphreys will agree to repair or replace the sewage treatment plant in accordance with a determination made by the Division of Water staff or by a reputable consulting engineer, and if Paradise Valley Sewage Plant, Inc. takes over operation of the facility, the Division is prepared to settle the civil penalty aspect of the case for \$10,000. If Mr. and Mrs. Pelphrey repair or replace the plant and continue to operate that system, the Division of Water will require a \$10,000 performance bond to be posted for a period of twelve months. The condition of the bond will be such that it will be forfeited upon their failure to comply with their KPDES permit conditions. A \$10,000 civil penalty will be required should this option be agreed upon by the Pelphreys.

Should this offer of settlement not be acceptable, then I would suggest that we set a trial date for hearing this case. You mentioned previously that you would like to take discovery. Consequently, I would suggest that we set a hearing date of April 1, 1985. Please check your calendar and let me know if that date is acceptable. If I don't hear from you within the next week or so, I will assume that the date is satisfactory, and will ask that a notice of hearing be prepared. If you would speak with the Pelphreys and determine their preference as to the settlement, I would appreciate that very much.

January 23, 1985

J. Scott Preston, Esq.  
232 Second Street  
Paintsville, Kentucky 41240

RE: Natural Resources and  
Environmental Protection Cabinet vs.  
Paul & Justene Pelphrey

Dear Scott:

I have received your letter, in which you indicated that April 1 is not convenient as a trial date for you. I have reviewed my schedule, and I would suggest that we move the trial date forward to the week of May 6 through May 10. If you would let me know which day would be preferable, I will see that a notice of hearing is prepared.

Should the offer of settlement be acceptable, please give me a call. As always, the Cabinet is open to reasonable counter-offers, but I would be frank with you and say that the Division of Water will expect a penalty of some kind to be paid by Mr. and Mrs. Pelphrey. Please contact me at your earliest convenience.

Sincerely,

Kathryn M. Hargraves  
Attorney

KMH/lis

Water  
MITCHELL

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

FILED<sup>7</sup>

FEB 05 1985

DIVISION OF HEARINGS

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

ADMINISTRATIVE SUMMONS  
AND  
ORDER SCHEDULING FORMAL HEARING

PAUL PELPHREY AND  
JUSTINE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

DEFENDANT

\* \* \* \* \*

You are hereby advised that a formal hearing is hereby set in the above case to be held Monday, May 6<sup>th</sup>, 1985, at the hour of 9:00 A.m. This formal hearing will take place in Room 8-I of the Capital Plaza Tower, Frankfort, Kentucky. Your failure to appear either in person or by counsel may result in a decision adverse to your position.

The Hearing Officer will be the Honorable J. Gregg Clendenin  
217 North Upper Street, Lexington, Kentucky 40507.

Pursuant to KRS 224.081(1) and 224.083 this hearing will be held before the Cabinet so that said Defendant may have an opportunity to respond to the allegations in the Complaint in the manner provided in KRS 224.081(1). The hearing will be conducted pursuant to: 400 KAR 1:030; 400 KAR 1:040; and 400 KAR 1:050.

YOU ARE HEREBY ADVISED THAT THIS HEARING WILL BE AN ADVERSARY PROCEEDING. You have the right to be represented by counsel.

Individuals representing their own interests have the right to introduce evidence in their behalf, and the right to cross-examine witnesses who may testify against them; however, all corporate defendants must be represented by counsel pursuant to Supreme Court Rule 3.020. Individuals not licensed to practice law in the Commonwealth of Kentucky may appear on behalf of other individuals or entities as a witness for the sole purpose of providing testimony. The formal hearing proceedings will be recorded and a transcript may be made; this transcript may be used in any subsequent court action involving this matter.

Pleadings, motions, or other documents may be filed prior to this hearing by forwarding them to the Docket Coordinator, Division of Hearings, Natural Resources and Environmental Protection Cabinet, Fourth Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

ALL OF WHICH IS CONSIDERED AND ORDERED this 5<sup>th</sup> day of February, 1985.

CHARLOTTE E. BALDWIN, SECRETARY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

Rita A. Hardin  
Docket Coordinator

CERTIFICATION

I hereby certify that a true copy of the foregoing ADMINISTRATIVE SUMMONS AND ORDER SCHEDULING FORMAL HEARING was mailed, postage prepaid, to the following this the 5<sup>th</sup> day of February, 1985:

J. Scott Preston, Esq.  
232 Second Street  
Paintsville, KY 41240

and hand delivered to:

Hon. Kathryn M. Hargraves  
Natural Resources and  
Environmental Protection Cabinet  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601

Rita A. Hardin  
Docket Coordinator

DISTRIBUTION:

Hearing Officer - Hon. G. Gregg Clendenen  
Division of water  
Court Reporter - Ms. Vivian Lewis

EUGENE C. RICE  
P. O. BOX 896

J. SCOTT PRESTON  
P. O. BOX 1361

LARRY G. BROWN  
P. O. BOX 1394

RICE, PRESTON, BROWN

ATTORNEYS AT LAW  
232 SECOND STREET  
PAINTSVILLE, KENTUCKY 41240

(606) 789-8251  
(606) 789-7211

February 11, 1985

Ms. Kathy Hargraves  
Natural Resources & Environmental  
Protection cabinet  
Capital Tower Plaza  
Frankfort, Kentucky 40601

RE: Paul Pelphrey, etal  
Suburban Sewage, Inc.

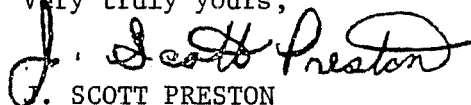
Dear Ms. Hargraves:

I have consulted my client concerning your possible offer to settle this matter and he has told me that he is willing to bring the plant into compliance and to extend sums of money up to as much as \$5000 to assist the community in maintaining their sewage treatment facility. He will then execute whatever is necessary to the Paradise Valley Sewage Plant, Inc., a non-profit organization organized by the residents of that corporation any and all interest which he may have which we don't believe is any as far as the plant itself goes to the corporation.

If this is agreeable please formulate an agreed order which we can enter into and therefore avoid any further litigation.

If you have any further questions concerning please do not hesitate to contact me.

Very truly yours,

  
J. SCOTT PRESTON

JSP/das

RECEIVED

FEB 11 1985

OFFICE OF  
GENERAL COUNSEL

MITCHELL

CHARLOTTE E. BALDWIN  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**

**CARL W. BREEDING**  
GENERAL COUNSEL  
OFFICE OF GENERAL COUNSEL  
FIFTH FLOOR, CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: (502) 564-5576

August 12, 1985

J. Scott Preston, Esq.  
232 Second Street  
Paintsville, Kentucky 41240

RE: Natural Resources and Environmental  
Protection Cabinet vs. Paul Pelphrey  
File No. 3754-W-21

Dear Scott:

As you are aware, we are awaiting a hearing officer's report on the case against Paul and Justene Pelphrey. I have received recent complaints from the neighborhood residents about the problems with the sewage treatment plant, especially as it pertains to possible health hazards. Consequently, the Division of Water has asked me to raise the possibility with you that the Pelphreys repair the sewage treatment plant by means of an Agreed Order, in exchange for a reduction in the previously proposed civil penalty. If you think such an option is possible, please let me know, otherwise we will await the outcome of the hearing officer's report.

Sincerely,

*K*  
Kathryn M. Hargraves  
Attorney

KMH/cmh

bcc: Bill Eddins  
Vandella Caudill



CHARLOTTE E. BALDWIN  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**

**CARL W. BREEDING**  
GENERAL COUNSEL  
OFFICE OF GENERAL COUNSEL  
FIFTH FLOOR, CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: (502) 564-5576

September 20, 1985

J. Scott Preston, Esq.  
232 Second Street  
Paintsville, Kentucky 41240

RE: Natural Resources and Environmental  
Protection Cabinet vs. Paul Pelphrey  
File No. 3754-W-21


Dear Scott:

I have discussed your letter of August 21, 1985, with the Division of Water staff. The Division of Water would like very much to see the sewage treatment plant repaired so that it may be conveyed to the residents at the subdivision. Consequently, we are prepared to offer Mr. and Mrs. Pelphrey the option of a substantially reduced civil penalty in exchange for immediate repairs being undertaken at the plant. The Division is prepared to offer a sliding scale, meaning that the penalty will be substantially reduced for quick repairs, with a higher penalty to be assessed if a delay occurs in the repair schedule. If the Pelphreys appear interested in this option, give me a call, and we can discuss the details.

The Division of Water has asked me to emphasize that the repairs should be undertaken immediately. We continue to receive complaints from the residents there about the poor operating condition of the plant. If the Pelphreys do not make a speedy response to this offer, the Division will not be willing to extend an offer at a later date.

Please contact me as soon as possible.

Sincerely,

  
Kathryn M. Hargraves  
Attorney

KMH/cmh

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO.

COMMONWEALTH OF KENTUCKY,  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

VERIFIED COMPLAINT

PAUL PELPHREY and JUSTENE PELPHREY

DEFENDANTS

SERVE: Paul Pelphrey  
409 Broadway  
Paintsville, KY 41240

Justene Pelphrey  
409 Broadway  
Paintsville, KY 41240

\* \* \* \* \*

The Plaintiff, Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, by counsel, states the following for its Verified Complaint against Paul Pelphrey and Justene Pelphrey:

1. The Cabinet is the administrative agency charged with the statutory duty of enforcing the laws of the Commonwealth pertaining to the protection of waters from pollution, and the construction, operation and maintenance of sewage treatment plants, pursuant to which it has promulgated administrative regulations 401 KAR 5:005 through 5:085, inclusive.

2. Paul Pelphrey and Justene Pelphrey own and have operated a sewage treatment plant at Hager Hill, Kentucky, serving the Paradise Valley Subdivision.

3. The sewage treatment plant is operated without benefit of a Kentucky Pollutant Discharge Elimination System permit, is not served by a certified waste water treatment plant operator, and appears to have been abandoned.

4. On May 9, 1986, an authorized representative of the Cabinet inspected this facility as a result of a citizen's complaint, and observed the following violations:

- a. The plant shows no evidence of having been operated or maintained in some time, in violations of KRS 224.060 and 401 KAR 5:065;
- b. The plant does not have a compressor motor, which is necessary in order for the plant to function, in violation of KRS 224.060 and 401 KAR 5:065;
- c. The plant was in violation of effluent limitations pertaining to its operation, in violation of KRS 224.060, 401 KAR 5:055, and 401 KAR 5:065;
- d. Untreated sewage was entering waters of the Commonwealth from the plant, in violation of KRS 224.060 and 401 KAR 5:031;
- e. The sewage treatment plant is located in extremely close proximity to an occupied home, the plant is not adequately protected from access by children, and flies are multiplying in the area and causing a general health hazard.

5. The violations at the sewage treatment plant owned by Paul and Justene Pelphrey are causing irreparable harm to the environment and to the public health, and the discharge of untreated sewage must cease immediately before further harm occurs.

6. The plant must be repaired, upgraded and properly maintained in order to deliver adequate sewage treatment in conformance with KRS Chapter 224 and the regulations promulgated pursuant thereto.

WHEREFORE, the Cabinet prays for the following relief:

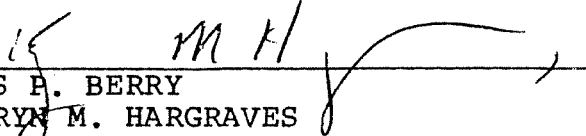
1. That a restraining order and temporary and permanent injunction be issued against Paul and Justene Pelphrey, prohibiting their continued discharge of untreated sewage to waters of the Commonwealth, pursuant to KRS 224.995.

2. That a mandatory injunction be entered ordering the Pelphreys to upgrade and properly maintain the sewage treatment plant, pursuant to KRS 224.995.

3. That a civil penalty of ten thousand dollars (\$10,000) for each violation be assessed for those violations observed May 9, 1986, and thereafter, pursuant to KRS 224.994.

4. That the Cabinet receive all other relief to which it is entitled.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

  
JAMES P. BERRY  
KATHRYN M. HARGRAVES  
Office of General Counsel  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601  
(502) 564-5576

COUNSEL FOR PLAINTIFF

VERIFICATION

I, William C. Eddins, state that I am Enforcement Branch Manager for the Division of Water, Natural Resources and Environmental Protection Cabinet. In that capacity I rely upon inspections made by Division of Water Field personnel to determine whether violations of the Division's regulatory programs exist at a given facility. Based on the inspection of May 9, 1986, a description of which is attached, I believe the Complaint in this action to be warranted and believe the allegations therein to be correct.

  
WILLIAM C. EDDINS

Subscribed and sworn to before me by William C. Eddins,  
this the 15<sup>th</sup> day of May, 1986.

Van F. Denton  
NOTARY PUBLIC

My Commission Expires: Aug 12, 1987.

**AFFIDAVIT**

On May 9, 1986, I visited the Paradise Village Subdivision located at Hager Hill, Kentucky in Johnson County, to determine the status of the sewage treatment plant serving this neighborhood.

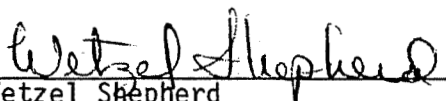
The plant was found to be inoperative and the compressor motor had been removed.

The only apparent treatment being afforded by the plant was some settling of solids. There was an accumulation of solids in the ditch below the point of discharge.

The daughter of Mr. & Mrs. Darwin Caudill was contacted and she stating that no attention had been given to the plant for several months.

Mr. Paul Pelphrey was contacted and stated that he had no responsibility for the plant and that a corporation headed by Mr. Dewey Bocook was the responsible party.

Pictures were taken to verify that the plant was inoperative.

  
Wetzel Shepherd  
Hazard District Office  
Division of Water

Subscribed and sworn to before me by Wetzel Shepherd to be his act and deed.

This the 12<sup>th</sup> day of May 1986.

  
NOTARY PUBLIC, STATE OF KY AT LARGE

My commission expires February 14 1987.

# MEMO

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION  
CABINET

TO: Bill Eddins

FROM: Kathy Hargraves

DATE: May 30

SUBJECT: Paul and Justene Pelphrey STP

I called to see if any progress had been made to the STP as a result of the new court order. I talked with Vandella Caudill and Dewey Bocook. Apparently Justene has asked Bocook to locate someone who can repair the plant. He got Keith Fairchild, who is a licensed operator for the Paintsville STP. Justene told him to order whatever parts he needed. Bocook thought the repairs would take about two weeks. I think the Pelphreys want the local residents to take the plant over. I'll check back with him in two weeks.

cc: Wetzels Shepherd

*Handwritten notes:*  
m...  
1/1/85



Mitchell

CHARLOTTE E. BALDWIN  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER  
HAZARD DISTRICT OFFICE  
233 BIRCH STREET, SUITE #1  
HAZARD, KENTUCKY 41701

*WE* MEMORANDUM

TO: William C. Eddins, Manager  
Enforcement Branch

THRU: John Hornback, Acting Manager *JH*  
Field Operations Branch

Gene Blair, Supervisor *GB*  
Hazard District Office

FROM: Wetzel Shepherd, Inspector  
Hazard District Office

DATE: July 15, 1986

SUBJECT: Paradise Village Subdivision STP  
Hagar Hill, Kentucky, Johnson County

On July 10, 1986, a follow-up visit was made to the wastewater treatment plant serving Paradise Village Subdivision located at Hagar Hill, Kentucky in Johnson County, to determine whether any progress had been made in the renovation of the plant.

The plant was operational at the time of the visit, but still had problems that are to be corrected in the near future according to Keith Fairchild who has been hired to make the necessary improvements in the facility.

A new compressor motor, a new comminutor, and a new post chlorination unit have been installed.

Only one bank of diffusers was operating the wastewater properly, the color of the contents was dark (indicating insufficient aeration), excessive solids in all treatment areas of the plant will have to be removed, a water service for cleaning the plant will have to be provided and the timing mechanism needs to be checked for accuracy and adjusted to aerate around the clock (periodically).

Mr. Keith Fairchild is a Class III wastewater treatment plant operator and should be able to bring this facility into compliance.

Mr. Fairchild was contacted and these items were discussed.

/fss

cc: Kathy Hargraves, Office of General Counsel

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

HEARING OFFICER'S REPORT

**FILED**

JUN 17 1986

PAUL PELPHREY and  
JUSTENE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

**DIVISION OF HEARINGS**  
DEFENDANT

\* \* \* \* \*

This action was initiated by the Natural Resources and Environmental Protection Cabinet ("Cabinet") against Paul Pelphrey and Justene Pelphrey ("Pelphreys") d/b/a Suburban Sewage Treatment Plant. This case arises from an operating permit issued to an entity known as "Suburban Sewage, Inc." for the operation of a sewage treatment plant in Johnson County, Kentucky. The Cabinet seeks civil penalties for the permittee's failure to comply with an Agreed Order and for various alleged violations, and remedial measures to upgrade the sewage treatment plant.

The Cabinet was represented by Hon. Kathryn Hargraves. Hon. Scott Preston represented the Pelphreys. Although properly served with notice of the hearing, the permittee did not appear at the hearing. Mr. Preston stated that he did not represent the permittee.

The Cabinet seeks to have civil penalties assessed against the Pelphreys individually on the theory that the entity which was issued the permit, Suburban Sewage, Inc. was not a corporation properly registered with the Secretary of State for the Commonwealth of Kentucky and never had been so registered.

It is beyond the scope of the jurisdiction of this Cabinet to determine whether or not a corporation existed in this or any other instance. Rather, any civil penalties assessed for the subject violations may only be assessed against the permittee as the permit was issued. The Cabinet may seek to collect such civil penalties in Circuit Court from any party they believe to be responsible. However, in the present administrative action, penalty recommendations will relate to the permittee and no one else.

In this particular case, the permittee neither appeared, filed any pleadings, or sought a continuance. Accordingly, a default judgment as to the permittee with regard to the allegations made in the Administrative Complaint which initiated this action is appropriate. We must determine only the amount of the recommended penalty.

The Cabinet established by evidence that the sewage treatment plan in question was not properly operated or maintained and that the violations of law alleged in the Administrative Complaint which initiated this action did in fact occur. Based on the evidence as a whole, the nature of the violations and their duration, it is recommended that a \$15,000 civil penalty be assessed against the permittee for the violations alleged in the Administrative Complaint and proved by the evidence.

While the scope of the jurisdiction of this agency is limited to the express statutory authority given it, the discretion of the Hearing Officer within that narrow jurisdiction is very broad. Taking into account that the secretary or higher courts may well disagree with the above expressed conclusion of law (i.e. that

this Cabinet lacks the jurisdiction to determine whether or not the permittee was a corporation) it was obvious from the evidence that the Pelphreys were functioning as operators of this sewage treatment plant. Accordingly, in the event that the basic Conclusion of Law is set aside, the following Findings-of-Fact-in-the-Alternative are included:

The evidence established that it was more likely than not that Paul and Justene Pelphrey were involved in the management and operation of the subject sewage treatment plant. Paul Pelphrey signed a previous Agreed Order with the Cabinet concerning this treatment plant as "Paul Pelphrey, Pres." At the hearing Mr. Pelphrey insisted that the "Pres." was an abbreviation for Present and not President. The credibility of Mr. Pelphrey's other denials of involvement in this operation was irreparably destroyed by this characterization of his signature on the Agreed Order. The evidence showed that Justene Pelphrey collected usage fees and paid debts of the treatment plant business.

In the event that a reviewing authority enters a Conclusion of Law that this Cabinet has the jurisdiction to determine the type of business organization which operated the sewage treatment plant, it is recommended that a Finding of Fact be entered making Paul and Justene Pelphrey personally responsible for the civil penalties and continued proper maintenance and repair of the subject sewage treatment plant.

#### FINDINGS OF FACT

1. Although properly served with notice of this proceeding, the permittee neither appeared nor requested a continuance.
2. Paul and Justene Pelphrey appeared at the hearing and

were represented by counsel and participated fully in the proceeding.

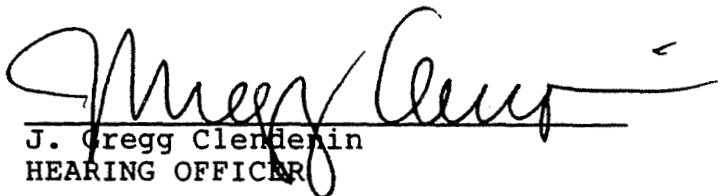
3. The allegations of fact contained in the Administrative Complaint which initiated this action shall be taken as true against the permittee, Suburban Sewage, Inc.

#### CONCLUSIONS OF LAW

1. Suburban Sewage, Inc. violated the statutes and regulations for which it was cited in the Administrative Complaint which initiated this action.

2. A cumulative civil penalty of \$15,000 should be assessed against the permittee.

3. The Natural Resources and Environmental Protection Cabinet lacks the jurisdiction to determine whether or not the permittee was a duly chartered corporation, a sole proprietorship, or other form of business association. The permittee should be ordered to bring the subject sewage treatment plant into compliance with current regulations and thereafter to properly maintain the treatment plant.

  
J. Gregg Clendenin  
HEARING OFFICER

#### CERTIFICATE OF SERVICE

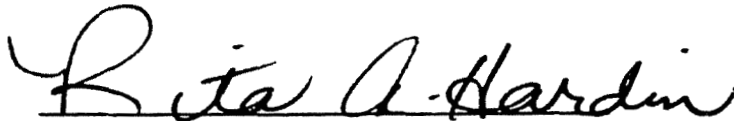
I hereby certify that a true and accurate copy of the foregoing HEARING OFFICER'S REPORT AND RECOMMENDED ORDER was mailed, postage pre-paid, to the following this 17th day of June, 1986:

Hon. J. Scott Preston  
P.O. Box 1361  
Paintsville, Kentucky 41240

Suburban Sewage Treatment Plant  
c/o Mr. Paul Pelphrey  
409 Broadway  
Paintsville, Kentucky 41240

and hand delivered to:

Hon. Kathryn M. Hargraves  
Natural Resources and  
Environmental Protection Cabinet  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601

A handwritten signature in cursive script that reads "Rita A. Hardin". The signature is written in black ink and is positioned above the typed name.

RITA A. HARDIN, DOCKET COORDINATOR

DISTRIBUTION: Hon. J. Gregg Clendenin  
Division of Water

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

ORDER

PAUL PELPHREY and  
JUSTENE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

DEFENDANT

\* \* \* \* \*

A hearing having been held in the above styled matter, the Hearing Officer having submitted a Hearing Officer's Report which included recommended Findings of Fact and Conclusions of Law, and the Secretary being otherwise sufficiently advised, the Secretary makes the following findings and conclusions:

FINDINGS OF FACT

1. Although properly served with notice of this proceeding, the permittee neither appeared nor requested a continuance.

2. Paul and Justene Pelphrey appeared at the hearing and were represented by counsel and participated fully in the proceeding.

3. The allegations of fact contained in the Administrative Complaint which initiated this action shall be taken as true against the permittee, Suburban Sewage, Inc.

Accordingly, it is hereby ORDERED and ADJUDGED:

1. Suburban Sewage, Inc. violated the statutes and regulations for which it was cited in the Administrative Complaint which initiated this action.

2. A cumulative civil penalty of \$15,000 is hereby assessed

against the permittee.

3. The civil penalty shall be paid by cashier's check, certified check, or money order made payable to the Kentucky State Treasurer. All penalty payments must reference the appropriate file number, permit number, and non-compliance number in order to expedite accurate crediting of accounts. The payment should be mailed to the Docket Coordinator, Division of Hearings, Fourth Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601.

4. The Natural Resources and Environmental Protection Cabinet lacks the jurisdiction to determine whether or not the permittee was a duly chartered corporation, a sole proprietorship, or other form of business association. The permittee is hereby ordered to bring the subject sewage treatment plant into compliance with current regulations and thereafter to properly maintain the treatment plant.

This the \_\_\_ day of \_\_\_\_\_, 1986.

---

Secretary



Water

**FILED**

AUG 20 1986

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 3754-W-21

**DIVISION OF HEARINGS**

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

PLAINTIFF

VS.

ORDER

PAUL PELPHREY and  
JUSTENE PELPHREY  
(d/b/a SUBURBAN SEWAGE TREATMENT PLANT)

DEFENDANT

\* \* \* \* \*

A hearing having been held in the above styled matter, the Hearing Officer having submitted a Hearing Officer's Report which included recommended Findings of Fact and Conclusion of Law, Exceptions and response thereto having been filed and considered and the Secretary being otherwise sufficiently advised, the Secretary makes the following findings and conclusions:

1. Although properly served with notice of the proceeding, the permittee neither appeared nor requested a continuance.
2. The allegations of Fact contained in the Administrative Complaint which initiated this action shall be taken as true against the permittee, Suburban Sewage, Inc.
3. Paul and Justene Pelphrey appeared at the hearing and were represented by counsel and participated fully in the proceeding.
4. That Paul and Justene Pelphrey, as individuals, owned and operated the Suburban Sewage Treatment Plant.
5. That the plant was not properly operated or maintained.
6. That this failure to properly operate and maintain constitutes violations of law as alleged in the Administrative Complaint.

Accordingly, it is hereby ORDERED and ADJUDGED:

1. Suburban Sewage, Inc., Paul Pelphrey and Justene Pelphrey violated the statutes and regulations for which they were cited in the Administrative Complaint which initiated this action.

2. A cumulative civil penalty of \$15,000 is hereby assessed against the permittee, Paul Pelphrey and Justine Pelphrey jointly and severally.

3. The civil penalty shall be paid by cashier's check, certified check, or money order made payable to the Kentucky State Treasurer. All penalty payments must reference the appropriate file number and permit number in order to expedite accurate crediting of accounts. The payment should be mailed to the Docket Coordinator, Division of Hearings, Fourth Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

This the 19 day of Aug., 1986.

Charlotte E. Baldwin  
CHARLOTTE E. BALDWIN, SECRETARY

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing ORDER has been mailed postage pre-paid to the following this the 20th day of August, 1986:

Hon. J. Scott Preston  
P.O. Box 1361  
Paintsville, KY 41240

Suburban Sewage Treatment Plant  
c/o Mr. Paul Pelphrey  
409 Broadway  
Paintsville, KY 41240

and hand-delivered to:

Hon. Kathryn Hargraves  
Natural Resources and  
Environmental Protection Cabinet  
Office of General Counsel  
Fifth Floor, Capital Plaza Tower  
Frankfort, KY 40601

Rita G. Hayden / CAB  
DOCKET COORDINATOR

DISTRIBUTION:

Hon. J. Gregg Clendenin  
Division of Water  
Order File

CC: Hazard DO  
EPA

*Water*

**FILED**

NOV 1, 1986

EUNICE MOORE  
CLERK FRANKLIN CIRCUIT COURT

FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 86-CI-1664  
DIVISION NO. II

PAUL PELPHREY and JUSTENE PELPHREY

PETITIONERS

VS.

CERTIFICATION OF RECORD

NATURAL RESOURCES AND ENVIRONMENTAL  
PROTECTION CABINET;  
SUBURBAN SEWAGE, INC.

RESPONDENTS

I, Rita A. Hardin, Docket Coordinator for the Natural Resources and Environmental Protection Cabinet, Commonwealth of Kentucky, do hereby certify that the attached documents constitute the record in the matter of NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET VS. PAUL PELPHREY AND JUSTENE PELPHREY, (d/b/a SUBURBAN SEWAGE TREATMENT PLANT), FILE NO. 3754-W-21 , from which the above-styled appeal has been taken.

CHARLOTTE E. BALDWIN, SECRETARY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

*Rita A. Hardin*

RITA A. HARDIN  
DOCKET COORDINATOR

Subscribed and sworn to before me by Rita A. Hardin this the 16th day of November, 1986.

*Cynthia L. Newton*  
NOTARY PUBLIC

My commission expires 11-9-87

CERTIFICATION

I hereby certify that a true and accurate copy of the foregoing CERTIFICATION OF RECORD, was mailed, postage prepaid, to the following this the 18<sup>th</sup> day of November, 1986:

Hon. Christopher M. Hill  
300 State National Bank Building  
P. O. Box 1100  
Frankfort, Kentucky 40602

and hand-delivered to:

Hon. Kathryn M. Hargraves  
Office of General Counsel  
Capital Plaza Tower, 5th Floor  
Frankfort, Kentucky 40601



RITA A. HARDIN  
DOCKET COORDINATOR

DISTRIBUTION: Hon. J. Gregg Clendenin  
Div. of Water

MARY HELEN MILLER  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

AUG 19 1987

Dewey L. Bocook, Jr.  
Paradise Village Subdivision  
Highway 825  
Hager Hill, Kentucky 41222

Re: NPDES No. KY0076686  
Johnson County, Kentucky

Dear Mr. Bocook:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Paradise Village Subdivision. This action constitutes a final permit issuance under 401 KAR 5:075 pursuant to KRS 224.034.

This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted by the Division of Water. 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.

If you wish to request an adjudicatory hearing, you must submit the request in writing (an original and two (2) copies) to the Office of General Counsel within thirty (30) days from the date of this letter. For your record keeping purposes, it is recommended that this request be sent by certified mail. The hearing request must conform to the requirements of KRS 224.081(2).

If you have any questions regarding this permit issuance, please contact David Rome of the Inventory and Data Management Section, Permit Review Branch at 502/564-3410.

Further information on procedures and legal matters pertaining to the adjudicatory hearing may be obtained by contacting Ms. Kathy Hargraves or Mr. Arthur Williams, Office of General Counsel, at 502/564-5576.

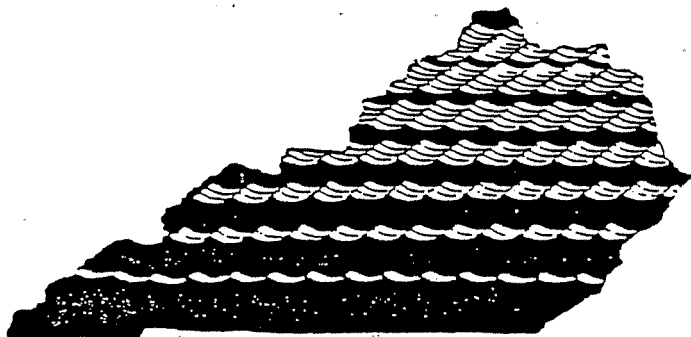
Sincerely,

A handwritten signature in black ink that reads "Dan Harker".

Donald F. Harker, Jr., Director  
Division of Water

DFH:JZ:lcc  
Enclosure  
cc: Hazard District Office

**KPDES**



**Kentucky Pollutant  
Discharge Elimination  
System**

**PERMIT**

Permit No.: KY0076686

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

Pursuant to Authority in KRS 224,

Paradise Village Subdivision  
Highway 825  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Paradise Village Subdivision  
Highway 825  
Hager Hill, Kentucky  
Johnson County

to receiving waters named

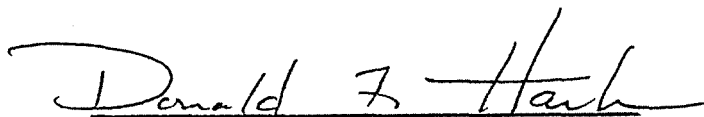
unnamed tributary of Burnt Cabin Branch

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on SEP 18 1987

This permit and the authorization to discharge shall expire at midnight, SEP 17 1992

8-19-87  
Date Signed

  
Donald F. Harker, Jr., Director  
Division of Water

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
Division of Water, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s) 001, Sanitary Wastewater.

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

	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>		
	lbs/day Monthly Avg.	Daily Max.	Other Units(Specify) Monthly Avg. Daily Max.	Measurement Frequency	Sample Type	Sampling Locatic
Flow, Design (0.0075 mgd)	-	-	-	1/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5 day), Carbonaceous	1.88	3.76	30 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	1.88	3.76	30 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	-	-	200	1/Quarter	Grab	Effluent
Ammonia (as N)	0.25 0.63	0.5 1.26	4 mg/l* 10 mg/l**	1/Quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l				1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter b grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
\*\* Effective November 1 - April 30



B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:
  - a. Attain compliance with effluent limitations on the effective date of this permit.
2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice to the permit issuing authority of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.
3. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during the previous 3 month(s) shall be summarized for each month (each quarter if monitoring frequency is quarterly) and must be reported on a Discharge Monitoring Report Form, postmarked no later than 28th day of the month following the completed reported period.

Division of Water  
Hazard District Office  
233 Birch Street  
Hazard, Kentucky 41701

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
18 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:085, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

January 5, 1988

Ownership of the plant was officially transferred from Suburban Sewage, Inc., to Paradise Village STP, Inc., with Mr. Dewey Bocook as the contact person:

The mailing address is: Bocook Engineering Company, Inc.  
419 Broadway  
Paintsville, Kentucky 41240

/fh

JIM

HAZARD DISTRICT OFFICE  
DIVISION OF WATER

TO: Jim Mitchell  
Compliance & Enforcement Branch

THRU: John Hornback, Manager JAH  
Compliance & Enforcement Branch

Gene Blair, Supervisor MB  
Hazard District Office

FROM: Wetzel Shepherd, Inspector  
Hazard District Office

DATE: January 5, 1988

SUBJECT: Enforcement Updates  
RE: Childers Oil Company  
KPDES #KY0082449 - 12/2/87

Paradise Village Subdivision STP  
KPDES #KY0076685 - 10/26/87

RECEIVED

JAN 19 1988

Field Operations Branch  
Division of Water

On December 2, 1987, an inspection was made on the oil spillage containment facilities that serve Childers Oil Company's facilities at Whitesburg, Kentucky, in Letcher County.

All containment structures, oil removal devices, and the final catch basin were in apparent good condition with water (when discharge is present) discharged from one point.

Sorbent material is kept on the surface of each containment device.

Discharge monitoring reports were received for January, February and March, 1987.

On October 26, 1987, an inspection was made on the wastewater treatment plant serving the Paradise Village Subdivision located at Hagar Hill, Kentucky, in Johnson County.

The plant was in acceptable mechanical condition. Solids removal needed to be initiated on a regular basis as there was an extensive accumulation in the plant.

Mr. Keith Fairchild, who operates the plant, was contacted and agreed to provide necessary sludge removal as needed.

Mr. Fairchild is a Class III operator and operates the Paintsville Municipal sewage treatment plant.

Jim Mitchell - Enforcement Updates  
Page Two  
January 5, 1988

Ownership of the plant was officially transferred from Suburban Sewage, Inc., to Paradise Village STP, Inc., with Mr. Dewey Bocook as the contact person:

The mailing address is: Bocook Engineering Company, Inc.  
419 Broadway  
Paintsville, Kentucky 41240

/fh

Johnson Co.

RJB  
Case # 7904

RECEIVED

JUL 27 1989

DEPT. OF LAW

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION II

86-CI-1664

FILED

JUL 26 1989

FRANKLIN CIRCUIT COURT  
JANICE MARSHALL, CLERK

PAUL PELPHREY  
and  
JUSTENE PELPHREY

PETITIONERS

v.

JUDGMENT AFFIRMING

COMMONWEALTH OF KENTUCKY,  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

RESPONDENT

This action is an appeal by the petitioners from an administrative order entered by the respondent Natural Resources and Environmental Protection Cabinet (hereinafter Cabinet) finding the petitioners to be the owners and operators of the Suburban Sewage treatment plant and assessing them a civil penalty for the failure properly to operate and maintain this plant. The petitioners do not contest the Cabinet's findings that the plant is in violation of the Kentucky Pollutant Discharge Elimination System and other water quality standards. Petitioners complain that they are not the owners and operators of the plant and, consequently, the Cabinet acted arbitrarily and unlawfully in assessing civil penalties for its unlawful operation against them.

The standards for this Court in reviewing the Cabinet's order is to determine whether substantial evidence exists to

support the Cabinet's order and whether the Cabinet applied the correct rule of law to the facts presented. Kosmos Cement Co., Inc. v. Haney, Ky., 698 S.W. 2d 819 (1985) and Starks v. Kentucky Health Facilities, Ky. App., 684 S.W. 2d 5 (1984).

The record reveals that in December, 1970, the petitioners purchased a certain parcel of property consisting of lots in a larger subdivision in Johnson County, Kentucky. Subsequent to this purchase, the petitioners sold individual lots in developing the parcel into a subdivision called Paradise Valley. The petitioners testified at the hearing below that they leased a portion of this property to Wayne Morgan for the purpose of constructing a package sewage treatment facility for the convenience and use of the residents of this subdivision. The houses in the subdivision were later connected to this sewage treatment facility. The evidence also demonstrated that the petitioners used their office address as a receiving point for the \$4.50 monthly sewage bills mailed in by the residential users of the system. The record reveals that the checks sent to the petitioners' office were generally made payable to Paul Pelphrey and endorsed by his wife, Justene Pelphrey, or another one of his authorized signators. The Pelphreys testified that Wayne Morgan owned and operated the sewage treatment facility until his death in 1979.

Before Mr. Morgan's death, however, in November of 1978, the Cabinet began a series of inspections of the treatment facility at Paradise Valley Subdivision. In a November 1978 memorandum, a



Cabinet official reported that the facility's compressor was burned out, "but that Mr. Pelphrey, the owner, assured me that a new one had been ordered and is on the way." The inspector's dealings were all with the petitioner Paul Pelphrey and he mailed several inspection reports to Pelphrey in care of Suburban Sewage, Inc., the entity listed as the permittee. The Cabinet inspector also testified that when he carried on all of his conversations with Pelphrey, Pelphrey never made any disclaimer of ownership or discussed who owned or operated the facility and these conversations would end with Pelphrey agreeing to perform the requested remedial measures.

This series of inspections and consequent demands from the Cabinet concerning the operation of this treatment facility resulted in an agreed order entered into between the Cabinet and Suburban Sewage, Inc. This order was signed on November 14, 1979. The signatories were the Cabinet and Suburban Sewage, Inc., Paul Pelphrey, Pres. Needless to say, Paul Pelphrey furnished the signature for Suburban Sewage, Inc. In his testimony, Mr. Pelphrey makes the bald assertion that his signature on the document merely signified that he was present and had signed the agreement. Suburban Sewage, Inc., the Cabinet later found out, does not exist as a corporate entity.

No one disputes that the provisions of the agreement were not complied with by Suburban Sewage, Inc. This failure resulted in the Cabinet's citations and the hearings resulting from the order appealed from in this action. The allegations of the Cabinet

included that the Pelphreys had failed to acquire the services of a certified waste water treatment plant operator, had failed to operate and maintain the plant in conformance with the KPDES program, and that the failure to operate and maintain the plant properly had ultimately led to the violation of the Cabinet's water quality standards. A hearing officer for the Cabinet, after a full evidentiary hearing, found Suburban Sewage, Inc., to be in violation of the statutes and regulations and recommended civil penalties. The hearing officer did not recommend a finding that Paul and Justene Pelphrey, who had appeared in person and by counsel at the hearing, be held personally responsible. The Cabinet filed exceptions to this recommendation. The Secretary of the Cabinet, in her order, found that Suburban Sewage, Inc., was a fiction and that the petitioners were individually liable for the violations. The petitioners have appealed this finding.

An objective review of the evidence reveals substantial probative evidence to support the finding of the Cabinet Secretary that the petitioners were the owners and operators of the sewage treatment plant in question. The Cabinet introduced documents of title establishing that Paul and Justene Pelphrey owned the property on which the sewage treatment plant is situated. Petitioner Justene Pelphrey testified that she in fact received the checks and money orders from the residents of the subdivision for payment of the sewage treatment services. She also stated that she sent out the bills under the name of "Suburban Sewage Treatment". Justene Pel-

phrey also testified that she signed Paul Pelphrey's name endorsing the back of many of these checks. She sent out the bills for most of the years in question and paid the utility bills for the sewage treatment plant. She further stated that the business address for Suburban Sewage, Inc., was the same address as the business address used by the petitioners.

Paul Pelphrey's testimony is virtually totally incredible. He stated that he could not recognize the agreed order and that he had never had anything to do with Suburban Sewage, Inc. He stated that although he did sign the agreed order as Paul Pelphrey, Pres., that the suffix Pres. did not signify President, but signified that he was present. His self-serving testimony was justifiably disregarded by the Cabinet Secretary.

The Cabinet asks the Court to consider numerous deposition transcripts from various subdivision residents in addition to the transcript of the hearing. The Court declines since these depositions were never admitted into the record. Furthermore, there is no indication in the record that the fact-finder relied upon any of this evidence.

In finding the petitioners personally liable for the violations of these statutes and regulations, the Cabinet Secretary ruled that the Cabinet could examine the legal structure of the permittee to determine whether it was a corporation, a partnership or an individually-owned proprietorship. She determined that since the corporate permittee was a fiction, there was no corporate shield

to protect the Pelpheys from individual liability. Both the hearing officer and the Cabinet Secretary found as a matter of fact that the petitioners owned and operated the sewage treatment plant. The Secretary correctly concluded that that finding justified the imposition of a civil penalty on the individual owners and operators of the sewage treatment facility.

Petitioners assert that they make take refuge behind the concept of a de facto corporation or a corporation by estoppel. Although these concepts have been recognized, there is no authority that such concepts would apply under the presented facts. These concepts are also undermined by the Kentucky Business Corporation Act, KRS Chapter 271A. KRS 271A.280 provides that corporate existence shall not begin until the issuance of the Certificate of Incorporation by the Secretary of State. KRS 271.670 states that all persons who assume to act as a corporation without authority to do so shall be jointly and severally liable for all debts and liabilities occurred or arising as a result thereof.

The Cabinet Secretary's order is supported by substantial probative evidence in the record and is not in error as a matter of law. The order entered by the Cabinet Secretary on August 19, 1986, is **THEREFORE AFFIRMED.**

This is a final and appealable judgment and there is no just cause for delay.

SO ORDERED THIS 26 day of JULY, 1989.

  
JUDGE, FRANKLIN CIRCUIT COURT

McBRAYER, MCGINNIS, LESLIE & KIRKLAND

300 STATE NATIONAL BANK BUILDING

P. O. BOX 1100

FRANKFORT, KENTUCKY 40602-1100

502-223-1200

TELECOPIER NO. 502-227-7385

September 15, 1989

W. TERRY McBRAYER  
JOHN R. MCGINNIS  
PHILLIP BRUCE LESLIE  
WILLIAM D. KIRKLAND  
J. D. ATKINSON, JR.  
GEORGE D. GREGORY  
GILLARD B. JOHNSON, III  
DAVID A. NUNERY  
FRED E. (BO) FUGAZZI, JR.  
W. BRENT RICE  
PHILIP E. FAY  
JAMES H. FRAZIER, III  
MEGAN LAKE THORNTON  
CHRISTOPHER M. HILL  
MASTEN CHILDERS, II  
SARAH M. JACKSON  
ROY C. GRAY, III  
LISA ENGLISH HORD  
WILLIAM R. PALMER, JR.  
KATHERINE K. KENDALL  
GLENN E. ACREE  
BRUCE W. MACDONALD \*  
THOMAS C. LYONS  
CHARLA McNALLY BURCHETT  
STEPHEN L. COLLINS  
THOMAS A. PREWITT

OF COUNSEL  
G. B. JOHNSON, JR.

WATSON CLAY (1908-1985)  
OSCAR SAMMONS (1908-1985)

163 WEST SHORT STREET  
SUITE 300  
LEXINGTON, KENTUCKY 40507-1361  
606-231-8780  
TELECOPIER NO. 606-231-6518

MAIN & HARRISON STREETS  
P. O. BOX 347  
GREENUP, KENTUCKY 41144-0347  
606-473-7303  
TELECOPIER NO. 606-473-9003

319 SECOND STREET  
P. O. BOX 1500  
PIKEVILLE, KENTUCKY 41501-1500  
606-432-2149  
TELECOPIER NO. 606-432-2150

\* ADMITTED IN OHIO

Hon. Kathryn M. Hargraves  
Office of General Counsel  
Natural Resources & Environmental  
Protection Cabinet  
Fifth Floor  
Capital Plaza Tower  
Frankfort, Kentucky 40601

RECEIVED

SEP 18 1989

DEPT. OF LAW

RE: Paul and Justene Pelphrey v. Commonwealth of Kentucky,  
Natural Resources & Environmental Protection Cabinet,  
et al.  
Franklin Circuit Court  
Division II  
Civil Action No. 86-CI-1664

Dear Ms. Hargraves:

You had earlier indicated, by telephone, that you had obtained authorization to settle the above-referenced proceedings for \$10,000.00. I related this settlement proposal to my clients, Paul and Justene Pelphrey. Under the circumstances, they cannot meet this proposed settlement sum, but, after much deliberation and consideration, they do have a counter-offer to present to you. Please be advised the counter-offer is being presented solely for the purposes of settlement negotiations and without waiving any rights which my clients might have at law to pursue, through all avenues available to them, what they feel was a clearly erroneous assessment, from both procedural and legal standpoints.

My clients have authorized me to present a counter-offer of \$7,500.00 in an effort to resolve this matter. Of particular interest to the Cabinet should be the fact that this amount could be paid in one lump sum virtually immediately.

My clients do not feel that they, in all fairness, should be held to be jointly and severally liable for the assessment based on the alleged sewage treatment facility's violations

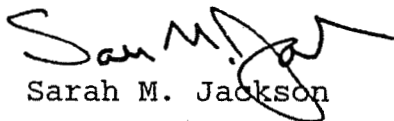
Hon. Kathryn M. Hargraves  
September 15, 1989

Page 2

when many neighbors continued on with the sewage treatment facility as did my clients. A Wayne Morgan owned and operated the sewage treatment facility and initially employed an individual to take care of the sewage treatment facility. Wayne Morgan died in 1979, and Paul and Justene Pelphrey were suddenly viewed as "associated" with the facility. While my clients are willing to bear some of the financial burden to resolve this matter, they do not feel that they should bear the entire financial burden of the assessment, particularly where, as here, there were many other subdivision residents who benefited from the continued operations of the facility. Thus, in this instance, my clients' proposal represents an attempt to carry more than their "fair share" of the penalty levied.

I hope that you will talk once again with Cabinet officials, and I would urge you to give this counter-offer every serious consideration.

Sincerely,



Sarah M. Jackson

SMJ:la

cc: Paul and Justene Pelphrey

RECEIVED

DEC 10 1991

JOHN C. SCOTT, CLERK  
COURT OF APPEALS

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION II  
CIVIL ACTION NO. 86-CI-1664

91-2883

2653005

FILED

DEC - 6 1991

PAUL PELPHREY  
and  
JUSTENE PELPHREY

FRANKLIN CIRCUIT COURT  
JANICE MARSHALL, CLERK  
PETITIONERS

V.

NOTICE OF APPEAL

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL  
PROTECTION CABINET

RESPONDENT

\*\* \*\* \* \* \* \* \*

Notice is hereby given that the Petitioner, Justene Pelphrey, in this proceeding hereby appeals to the Kentucky Court of Appeals from the final judgment entered by this Court on July 26, 1989 and the Order entered by this Court on November 7, 1991.

The name of the Appellee against whom this appeal is taken is Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Defendant.

*Sarah M. Jackson* 31890  
35371

CHRISTOPHER M. HELL  
SARAH M. JACKSON  
McBRAYER, MCGINNIS, LESLIE,  
AND KIRKLAND  
300 State National Bank Bldg.  
P.O. Box 1100  
Frankfort, Kentucky 40602  
(502) 223-1200

COUNSEL FOR APPELLANT/PETITIONER,  
JUSTENE PELPHREY

CERTIFICATE OF SERVICE

29112

I hereby certify that a true and correct copy of the foregoing Notice of Appeal has been served, via first-class mail, on Hon. Kathryn M. Hargraves, Department of Law, Fifth Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, this the 6th day of December, 1991.



---

SARAH M. JACKSON  
COUNSEL FOR APPELLANT PETITIONER,  
JUSTENE PELPHREY



PHILLIP J. SHEPHERD  
SECRETARY



BRERETON C. JONES  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

OCT - 9 1992

Gary K. Fairchild, President  
Appalachian Waste Control, Inc.  
2656 Highway 2039  
Hagerhill, Kentucky 41222

Re: NPDES No. KY0076686  
Johnson County, Kentucky

Dear Mr. Fairchild:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Paradise Village Subdivision. 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.

If you wish to request an adjudicatory hearing, you must submit the request in writing (an original and two (2) copies) to the Department of Law within thirty (30) days from the date of this letter. For your record keeping purposes, it is recommended that this request be sent by certified mail. The hearing request must conform to the requirements of KRS 224.10-420.

If you have any questions regarding this permit, please contact Ms. Judy Zeigler of the Inventory and Data Management Section, KPDES Branch, at (502) 564-3410.

Further information on procedures and legal matters pertaining to the adjudicatory hearing may be obtained by contacting Ms. Kathy Hargraves, Department of Law, at (502) 564-5576.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack A. Wilson".

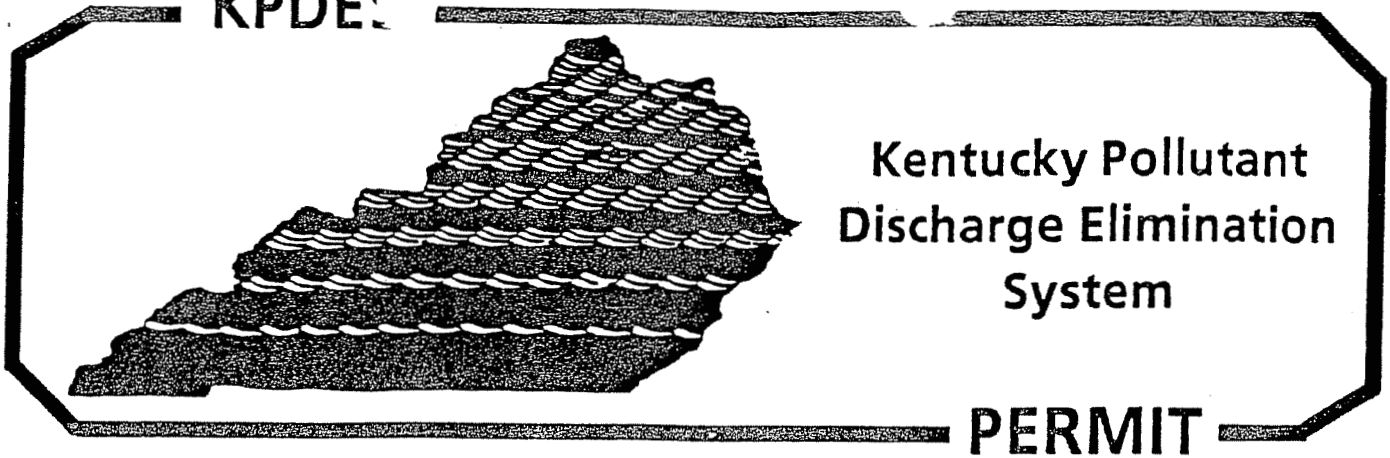
Jack A. Wilson, Director  
Division of Water

JAW:BT:dc  
Enclosure  
c: Hazard Regional Office



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KPDE



Kentucky Pollutant  
Discharge Elimination  
System

PERMIT

PERMIT NO. KY0076686

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hagerhill, Kentucky 41222

is authorized to discharge from a facility located at

Paradise Village Subdivision  
Highway 1428  
South of Hagerhill, Johnson County, Kentucky

to receiving waters named

Unnamed tributary (mile 0.36) of Burnt Cabin Branch (mile 1.7)

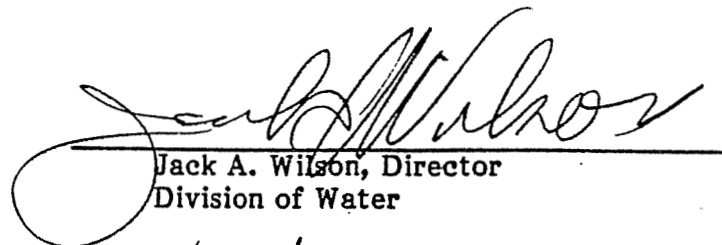
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

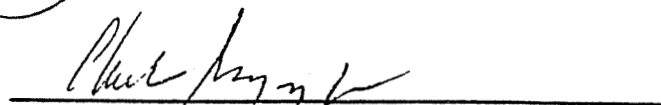
This permit shall become effective on **DEC - 1 1992**

This permit and the authorization to discharge shall expire at midnight, **NOV 30 1997**

**OCT - 9 1992**

Date Signed

  
\_\_\_\_\_  
Jack A. Wilson, Director  
Division of Water

  
\_\_\_\_\_  
C. Gregory Higdon  
Acting Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s): 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>			
	Monthly <u>Avg.</u>	lbs/day Daily <u>Max.</u>	Other Units (Specify) Monthly <u>Avg.</u>	Measurement Frequency	Sample Type	Sampling Location	
Flow, Design (0.0075 mgd)	N/A	N/A	Report	1/Week	Instantaneous	Influent or Effluent	
Biochemical Oxygen Demand (5 day), Carbonaceous	1.88	3.75	30 mg/l	60 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	1.88	3.75	30 mg/l	60 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	400	1/Quarter	Grab	Effluent
Ammonia (as N)	0.25 0.63	0.50 1.25	4 mg/l* 10 mg/l**	8 mg/l* 20 mg/l**	1/Quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l					1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31

\*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:
  - a. Attain compliance with effluent limitations on the effective date of this permit.
2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice to the permit issuing authority of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.
3. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each quarter must be summarized and reported on a preprinted Discharge Monitoring Report (DMR) Form which will be mailed to you. Each quarter's completed DMR must be mailed to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:080 and KRS 224, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

to:

John

FIJ

MEMORA to: GARY

TO: Kathy Hargraves, Director Paul  
Natural Resources and Environmental Protection  
Legal Division

FROM: Gary F. Levy, Manager  
Enforcement Branch  
Division of Water

DATE: September 13, 1993

SUBJECT: Case Closure/Paul Pelphrey and Justene Pelphrey formerly  
dba Suburban Sewage Treatment Plant  
Case No. DOW 79044  
DOL File No. 3754-W-21  
Johnson County, Kentucky  
Franklin Circuit Court, Division II  
Civil Action No. 86-CI-1664

Closure of the above-referenced case is requested based upon the execution of an Agreed Order by the Circuit Court, payment of the civil penalty, and the Pelphrey's no longer operating the sewage treatment plant.

Please contact Phillip A. Broomall at 564-3410, if you have any questions concerning this matter.

GFL/PAB/js

cc: Gene Blair, Hazard Regional Office  
Yvette Hurt, Department of Law

25-AUG-1993

PENALTY AND COST ACCOUNTS  
FROM 1993-08-24 THRU 1993-08-

24

AGENCY NAME: DIV OF WATER

PENALTY AMT COST REMITTER/CASE DEPOSITED ACCT DEPOSITED	COST AMT DEPOSITED	FILE PENALTY NUMBER REFUND	DATE RECEIVED BALANCE DUE	DEP NUMBER	TRANSACTION DATE
NATIONAL SOUTHWIRE ALUMINUM 3,000.00	0.00	0.00	0.00	DOW-92114	1993-08-24
NATIONAL SOUTHWIRE ALUMINUM 2,000.00	0.00	0.00	0.00	DOW-92114	1993-08-24
GULLETT TRUCKING CO., INC. FOR GULLETT TRUCKING COMPANY 800.00	0.00	0.00	0.00	DOW-93117	1993-08-24
PAID ON CASE: PETERS OIL AND GAS CO. 250.00	0.00	0.00	500.00	DOW-93025	1993-08-24
BULLITT UTILITIES, INC. 1,000.00	0.00	0.00	0.00	DOW-93146	1993-08-24
LOUIS E. HAMMACK FOR HAMMACK, LOUIS E. 275.00	0.00	0.00	1,375.00	DOW-93041	1993-08-24
CORNING INC. FOR CORNING GLASS 3,500.00	0.00	0.00	0.00	DOW-93128	1993-08-24
CITY OF OLIVE HILL FOR OLIVE HILL, CITY OF 2,800.00	0.00	0.00	-2,800.00	DOW-93047	1993-08-24
PREMIER ELKHORN FOR PREMIER ELKHORN COAL COMPANY 1,000.00	0.00	0.00	-1,000.00	DOW-93081	1993-08-24
MELLON SQUARE OFFICE/EQUIP. RE FOR EQUITABLE RESOURCES EXP. 3,500.00	0.00	0.00	0.00	DOW-93119	1993-08-24
PAUL PELPHREY/JUSTENE PELPHREY FOR SUBURBAN SEWAGE TREATMENT, INC 4,647.33	0.00	0.00	7,500.00	DOW-3754	1983-12-12 79044 1993-08-24 PA
PAUL PELPHREY/JUSTENE PELPHREY FOR SUBURBAN SEWAGE TREATMENT, INC 2,852.67	0.00	0.00	7,500.00	DOW-3754	1983-12-12 1993-08-24

TOTAL PENALTY AMOUNT DEPOSITED FOR DIV OF WATER:

25,625.00

TOTAL COST ACCOUNT AMOUNT DEPOSITED FOR DIV OF WATER:

0.00

TOTAL PENALTY REFUND AMOUNT FOR DIV OF WATER:



PAB

CL  
5-5-94 gmc  
OK to close

CLOSURE MEMORANDUM

TO: Kathryn M. Hargraves, Director  
Natural Resources and Environmental  
Protection Legal Division

THROUGH: Brenda G. Lowe, Manager  
Water Legal Branch

Joyce Albro, Supervisor  
Water Legal Branch

FROM: Yvette R. Hurt, Attorney  
Water Legal Branch

RE: NREPC v Paul and Justene Pelphrey (Suburban Sewage  
Inc.), DOW File No.3754-W-21

**NOT FOR PUBLIC INSPECTION,  
CONTAINS LEGAL ADVICE AND  
PRELIMINARY RECOMMENDATIONS  
NOT SUBJECT TO DISCLOSURE UNDER  
THE KENTUCKY OPEN RECORDS ACT.**

This memorandum requests closure of the above-referenced case on the basis of its complete resolution. A Secretary's Order was entered in the administrative case referenced above on August 19, 1986. That order assessed a \$15,000 civil penalty jointly and severally against Paul Pelphrey and Justene Pelphrey as owners and operators, and Suburban Sewage Inc. as permittee, of the Paradise Valley waste water treatment plant at which numerous violations had been documented.

Just prior to entry of the Secretary's Order, the Cabinet filed for a Restraining Order in Franklin Circuit Court to prevent any further discharge from the Paradise Valley plant (86-CI-923). A Restraining Order was entered on May 15, 1986. That action was dismissed on September 2, 1986.

On September 16, 1986, Paul and Justene Pelphrey appealed to the Franklin Circuit Court for review of the Secretary's Order assessing individual liability against them (86-CI-1664). On July 26, 1986 the Franklin Circuit Court issued an order affirming the Cabinet Secretary's Order. Paul and Justene Pelphrey filed a Motion to Alter, Amend or Vacate that judgment and, on November 7, 1991, the Court denied that motion.

On December 6, 1991, Justene Pelphrey, alone, appealed the judgment of the Franklin Circuit Court to the Court of Appeals (91-CA-002883-MR). After the submission of briefs and oral arguments, the Court of Appeals entered an order affirming the Franklin Circuit judgment on January 29, 1993.

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

DEC - 9 1997

Gary K. Fairchild, President  
Appalachian Waste Control Inc.  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: NPDES No. KY0076686  
Johnson County, Kentucky

Dear Mr. Fairchild:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Paradise Village Subdivision. 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 copies of request for hearing should be submitted in writing to the Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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 Ms. Judy Zeigler, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Hon. Barbara Foster, Division of Hearings, at (502) 564-7312.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:BT  
Enclosure  
c: Hazard Regional Office





COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**STATEMENT OF BASIS**

**KPDES No.:** KY0076686    **Permit Writer:** Daymond Talley    **Date:** July 23, 1997

**Facility Name:** Paradise Village Subdivision

**Facility Location:** Route 1428  
Hager Hill, Johnson County, Kentucky

**Permitting Action:** This is a reissuance of a permit for a subdivision.

**Permit Duration:** 5 years

**Receiving Stream:** UT of Burnt Cabin Branch at mile point 0.36

**Stream Segment Use Classification:** Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation

**Stream Low Flow Condition:** 0.00 cfs

**Justification of Permit Conditions:**

The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.

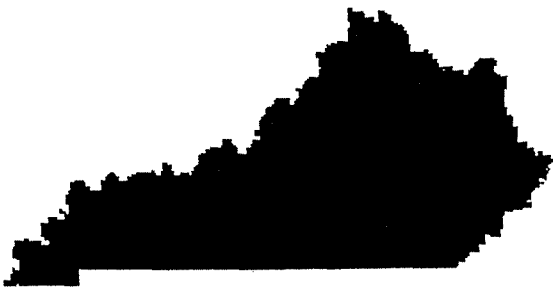
Biochemical Oxygen Demand (5 day), Total Suspended Solids, Fecal Coliform and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

Nondegradation  
The conditions of 401 KAR 5:029, Section 2(1) and (3) have been satisfied by this permit action. A review under Section 2(2) and (4) is not applicable.

(Disk #1/jk)

# KPDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

# PERMIT

PERMIT NO.: KY0076686

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

Pursuant to Authority in KRS 224,

Appalachian Waste Control Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Paradise Village Subdivision  
Route 1428  
Hager Hill, Johnson County, Kentucky

to receiving waters named

UT of Burnt Cabin Branch at mile point 0.36

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on **FEB 1 1998**

This permit and the authorization to discharge shall expire at midnight, **JAN 31 200**

**DEC 29 1997**

Date Signed

A handwritten signature in black ink, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s): 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS			
	lbs/day	Other Units (Specify)	Measurement Frequency	Sample Type	Sampling Location			
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.	1/Week Report	1/Quarter Report	1/Quarter Report	1/Quarter Report
Flow, Design (0.0075 mgd)	N/A	N/A	N/A	N/A	N/A	Report	Report	Report
Biochemical Oxygen Demand (5 day), Carbonaceous	1.88	3.76	30 mg/l	60 mg/l	1/Quarter	60 mg/l	Composite	Effluent
Total Suspended Solids	1.88	3.76	30 mg/l	60 mg/l	1/Quarter	60 mg/l	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	400	1/Quarter	400	Grab	Effluent
Ammonia (as N)	0.25	0.50	4 mg/l*	8 mg/l*	1/Quarter	8 mg/l*	Composite	Effluent
	0.62	1.24	10 mg/l**	20 mg/l**	1/Quarter	20 mg/l**	Composite	Effluent

Dissolved Oxygen shall not be less than 7 mg/l

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each quarter must be summarized and reported on a preprinted Discharge Monitoring Report (DMR) form which will be mailed to you. Each quarter's completed DMR must be mailed to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:080 and KRS 224, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.



Johnson

2002 FEB 14 P 12:34  
RECEIVED BY LANCE BOWLING

Gary Keith Fairchild  
2656 KY RT 2039  
Hager Hill, KY 41222

February 13, 2002

Division of Water  
Permits Branch  
Frankfort Office Park,  
14 Reilly Road  
Frankfort, KY 40601

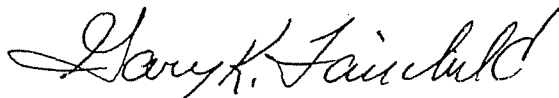
Dear Sir:

This letter is to notify the KY Division of Water that as of February 1, 2002, that all Waste Water Systems owned by Appalachian Waste Control have been given away. A list of these systems is included with this letter.

Mr. Lance Bowling, **Class I Certification Number 01485** has accepted the systems. He is currently certified by KY Division of Water in Waste Water Operation. He began operation and maintenance of the systems as of February 1, 2002.

Both parties are proceeding with the paperwork needed to complete the transfers.

Sincerely,



Gary Keith Fairchild

Neil Price Subdivision  
Preston Estates  
Richmond Hills Estates  
Paradise Village  
Burkeshire Estates

KY0097225  
KY0080047  
KY0093823  
KY0076686  
KY0102687

# CHANGE IN OWNERSHIP CERTIFICATION

76

Facility Name <i>Paradise Village</i>	NPDES No. <i>KY0076686</i>
Previous Name (if changed)	County <i>Jones P 12: 15</i>

I hereby certify that I will assume ownership and all responsibility for meeting the permit conditions of the Commonwealth of Kentucky relating to water quality at the permitted facility listed above on the effective date indicated.

Name of New Owner or Authorized Representative	<i>Lance Bowling</i> RECEIVED BY KPDES BRANCH
Company Name	<i>East Kentucky Waste Control</i>
Address of New Owner (Street, City, State, Zip Code)	<i>153 George Br. East Point, Ky. 41216</i>
Telephone No. of Owner/Authorized Representative	<i>(606) 889-0414</i>
Location Address of Facility	<i>Paradise Village Hager Hill, Ky</i>
Effective Date of Transfer	<i>Feb 1, 2002</i>
Previous Owner Name	<i>Appalachian Waste Control</i>

Indicate the address where the Discharge Monitoring Report (DMR) forms should be sent. (Complete only if different from owner name and address listed above.) These DMR forms are preprinted with permit limitations and mailed out each quarter (semi-annually for individual residences).

Alternate DMR Mailing Name	
Alternate DMR Mailing Address	

Signature of New Owner or Authorized Representative <i>Lance Bowling</i>	Date <i>2-23-02</i>
---	------------------------

Acknowledged before me this 25 day of February, 2002

Notary Public *Linda Bowling* Commission Expires: *Dec. 7, 2002*

*Notary Seal*

**Questions on completing this form?** Contact the KPDES Branch at (502) 564-3410.

**Complete and return this form to:** Division of Water, KPDES Branch  
Frankfort Office Park  
14 Reilly Road  
Frankfort, KY 40601

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

February 27, 2002

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Paradise Village  
KPDES Permit No.: KY0076686  
Johnson County, Kentucky

Dear Mr. Bowling:

The Division of Water received the Change in Ownership Certification for the above-referenced facility. The Kentucky Pollutant Discharge Elimination System (KPDES) permit has been revised to reflect this change. Enclosed is a copy of the KPDES permit with the revised page.

If you have any questions, please contact Pete Beckley, of my staff, at (502) 564-2225, extension 469.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Scott".

**R. Bruce Scott, P.E.**  
Environmental Engineer Branch Manager  
KPDES Branch  
Division of Water

RBS:PB:pg  
Enclosure

c: Hazard Regional Office  
Division of Water Files



Printed on Recycled Paper  
An Equal Opportunity Employer M/F/D

**KY-DES**



**KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM**

**PERMIT**

PERMIT NO.: KY0076686

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

Pursuant to Authority in KRS 224,

Appalachian Waste Control Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

This permit is transferred to:

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

is authorized to discharge from a facility located at

Paradise Village Subdivision  
Route 1428  
Hager Hill, Johnson County, Kentucky

Effective Date: 2/27/02

to receiving waters named

UT of Burnt Cabin Branch at mile point 0.36

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on **FEB 21 1998**

This permit and the authorization to discharge shall expire at midnight, **JAN 31 2001**

**DEC 29 1997**

Date Signed

A handwritten signature in black ink, appearing to read 'Jack A. Wilson'.

Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

**KPD&S**



**KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM**

**PERMIT**

PERMIT NO.: KY0076686

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

Pursuant to Authority in KRS 224,

Mr. Jeffery Lance Bowling  
153 George Branch  
East Point, Kentucky 41216

is authorized to discharge from a facility located at

Paradise Valley Subdivision  
Paradise Valley Street (Route 1428)  
Hager Hill, Johnson County, Kentucky

to receiving waters named

Unnamed tributary (mile 0.36) of Burnt Cabin Branch (mile 1.7)

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in PARTS I, II, and III hereof. The permit consists of this cover sheet, and PART I 2 pages, PART II 1 page, and PART III 1 page.

This permit shall become effective on **AUG 1 2003**

This permit and the authorization to discharge shall expire at midnight, December 31, 2005.

**JUN 18 2003**

Date Signed

A handwritten signature in black ink, appearing to read 'Jeffrey W. Pratt'.

Jeffrey W. Pratt, Director  
Division of Water

Robert W. Logan  
Commissioner

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

Printed on Recycled Paper

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from Outfall serial number: 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>			
	Monthly Avg.	Daily Max.	lbs/day Other Units (Specify) Monthly Avg.	Report	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.0075 mgd)	N/A	N/A	Report	Report	1/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5-day), Carbonaceous	1.88	3.75	30 mg/l	60 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	1.88	3.75	30 mg/l	60 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	400	1/Quarter	Grab	Effluent
Ammonia (as N)	0.25 0.63	0.50 1.25	4 mg/l* 10 mg/l**	8 mg/l* 20 mg/l**	1/Quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l					1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per Quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: nearest accessible point after final treatment, but prior to actual discharge or mixing with receiving waters.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. 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.



**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.

~

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each quarter must be summarized and reported on a preprinted Discharge Monitoring Report (DMR) form that will be mailed to you. Each quarter's completed DMR must be mailed to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28<sup>th</sup> day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
Attn: Supervisor

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water/KPDES Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. Controls any pollutant not limited in the permit.

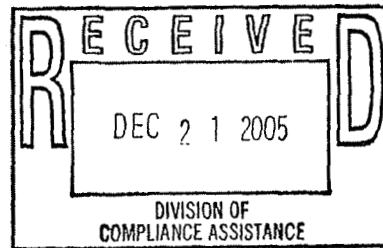
The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

To. division of compliance assistance

I, Larry Stambaugh, a certified class III waste water operator will be taking over the operation and maintenance of 5 residential package plants for East Kentucky Waste Control. Lance Bowling is and will remain to be the owner of the company and plants, but lost his license and is no longer certified to run the plants. My certification number if needed is 13665. Lance Bowling will also need to be taken off as the operator.

The 5 plants are in Johnson county. The names and certification numbers are as followed:  
Burkshire Estates Ky0102687, Richmond hills Ky0093823, Neil Price subdivision Ky0097225,  
Paradise Village Ky0076686, Preston Estates Ky0080047.

Larry Stambaugh



COUNTY: JOHNSON  
FACILITY: PARADISE, PRESTON, NEAL PRICE, BURKESHIRE, RICHMOND HILLS  
I.D. # 2396, 2401, 2392, 2409  
SECTION: KPDES  
SENT BY: CSA BRANCH DENE

AI 33350  
LARRY STAMBAUGH

AI 27918  
JEFFREY LANCE BOWLING

February 26, 2006

Ms. Vicky Prather  
Natural Resources and Environmental Protection  
Division of Water- K.P.D.E.S. Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, KY 40601

Dear Ms. Prather:

Effective March 1, 2006, please send all K.P.D.E.S. Discharge Monitoring Reports for the following facilities:

Paradise Village Subdivision,	Johnson County	<u>KY0076686</u>
Bush Gardens,	Johnson County	<u>KY0103853</u>
Burkshire Development,	Johnson County	<u>KY0102687</u>
Neal Price Subidivision,	Johnson County	<u>KY0097225</u>

to the following address:

McCoy & McCoy Laboratories  
Attn: D.M.R. Coordinator  
P.O. Box 907, 825 Industrial Road  
Madisonville, KY 42431

Sincerely,

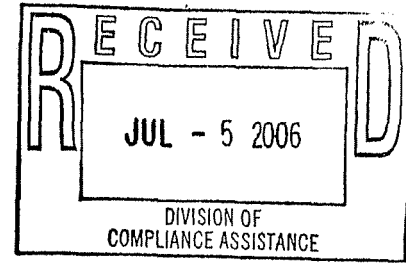
FACILITY: \_\_\_\_\_

CONTACT: Larry Stambay

TITLE: operator

INPUT INTO PCS

Larry M Stambaugh  
14 Reilly Road  
Frankfort, KY 40601  
502.221.1075



AI # 33350

June 30, 2006

Wastewater Certification Section  
14 Reilly Road  
Frankfort, Ky 40601

To Whom It May Concern:

This letter is to notify you that I Larry M Stambaugh certification # 13665, agency interest # 33350 will no longer be the operator for the following sewer package treatment plants effective June 30, 2006.

Plant Name	Permit Number
Richmond Hills Estates	KY0093823
Preston Estates Subdivision	KY0080047
Burkeshire Development Subdivision	KY0102687
Neal Price Subdivision	KY0097225
Paradise Valley Subdivision	KY0076686

Sincerely,

Larry M Stambaugh

A handwritten signature in cursive script that reads "Larry M Stambaugh".



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

December 9, 2006

Mr. Lance Bowling  
153 George Branch  
East Point, Kentucky 41216

Re: KPDES Permit Fee Due  
Paradise Village Subdivision  
KPDES No.: KY0076686  
Johnson County, Kentucky

Dear Mr. Bowling:

The Kentucky Pollutant Discharge Elimination System (KPDES) permit for the above-referenced facility has been finalized and is ready for issuance in accordance with 401 KAR 5:075, and pursuant to KRS 224.16-050.

**The KPDES permit fee due is \$1200.00.** Please make your check or money order payable to the Kentucky State Treasurer and mail it to the Division of Water, KPDES Branch, Inventory and Data Management Section, 14 Reilly Road, Frankfort, Kentucky 40601, within thirty (30) days of the date of this letter. For your record keeping purposes, it is recommended that the fee be sent by certified mail.

If you have any questions concerning this matter, please contact me at (502) 564-2225, extension 402.

Sincerely,

**Nancy Green, Program Coordinator**  
Inventory and Data Management Section  
KPDES Branch  
Division of Water

NG:ng  
c: Division of Water Files

## **APPENDIX D**

Kentucky Department for Natural Resources  
and Environmental Protection



Division of Water Quality

OPERATIONAL PERMIT

No. 01013290

PURSUANT TO AUTHORITY IN KRS 224, Permission is hereby granted to E.J. Preston  
Rt. 40, Paintsville, Ky. 41240

(herein after called the Permittee) to operate the following disposal system for disposal of treated wastewater  
at Preston Estates, Paintsville, Johnson Co., Ky.

\_\_\_\_\_ in accordance with the provision of said Act and all rules and regulations  
hereto and hereafter issued by the Department.

This permit is issued for the period from Feb. 1, 1979 to Jan. 31, 1984.

Subject to the conditions appearing herein and printed on the reverse side of this Permit and subject to the  
Permittee fully complying with the requirements set out below:

1. This permit is limited to discharge into Bufflo Creek at mile point  
0.25 with the following conditions:

See Attached Sheet

2. The facility is to be in compliance with the effluent conditions as established by the following schedule:

Submit Final Plans by: \_\_\_\_\_  
Begin Construction by: \_\_\_\_\_  
Complete Construction by: \_\_\_\_\_  
Obtain Operational Level by: \_\_\_\_\_

3. This permitted discharge in no way supersedes the need of a comprehensive sewer system, and if sewers become available this discharge must be eliminated and connection made to said system.
4. Periodic reports which adequately define the composition and volume of waste shall be submitted in accordance with the attached sheet.

Issued at Frankfort, Kentucky this the 23 day of May, 19 79.

NPDES No. \_\_\_\_\_

cc: Area District Office London Field Office

By: \_\_\_\_\_  
Director, Division of Water Quality



E.J. Preston  
 Route 40  
 Paintsville, Kentucky 41240

Johnson County  
 Permit #01013255

During the period beginning on the effective date of this permit and lasting through expiration, the permittee is authorized to discharge from outfall(s) serial number (s) 001 - sanitary wastewater.

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

<u>EFFLUENT CHARACTERISTIC</u>	<u>DISCHARGE LIMITATIONS</u>		<u>MONITORING REQUIREMENT</u>	
	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow - m <sup>3</sup> /day (MGD)			1/quarter	effluent
biochemical Oxygen Demand (5 day)	30 mg/l	60 mg/l	1/quarter	composite effluent
Total Suspended Solids	30 mg/l	60 mg/l	1/quarter	composite effluent
Fecal Coliform Bacteria, N/100ml	200	400	1/quarter	grab effluent
Ammonia	4.0 mg/l	8.0 mg/l	1/quarter	composite effluent
Dissolved Oxygen (minimum)	7.0 mg/l*		1/quarter	grab effluent
	2.0 mg/l**			

The permittee shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter at the effluent.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* EFF 4/1 - 10/31  
 \*\* EFF 11/1 - 3/31

CHARLOTTE E. BALDWIN  
SECRETARY



MARTHA LAYNE COLLINS  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FORT BOONE PLAZA  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

September 23, 1985

Mr. E. I. Preston  
President  
Woodland-Preston Enterprises, Inc.  
HC 87 #1800, Preston Estate  
Paintsville, Kentucky 41240

Re: NPDES No. KY0080047  
Johnson County

Dear Mr. Preston:

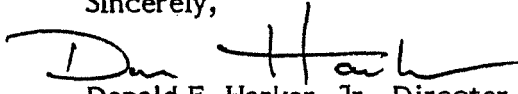
Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Preston Estates. This action constitutes a final permit issuance under 401 KAR 5:075 pursuant to KRS 224.034.

This permit will become effective on October 23, 1985 provided that no request for adjudication is granted by the Division of Water. In the event that an adjudicatory hearing request is granted, the contested provisions of the permit will be stayed and will not become effective until the administrative review process is completed. All uncontested provisions of the permit will be effective and enforceable in accordance with 401 KAR 5:075.

If you wish to request an adjudicatory hearing, you must submit the request in writing (an original and two (2) copies) to the Office of General Counsel within thirty (30) days from the date of this letter. For your record keeping purposes, it is recommended that this request be sent by certified mail. The hearing request must conform to the requirements of KRS 224.081(2).

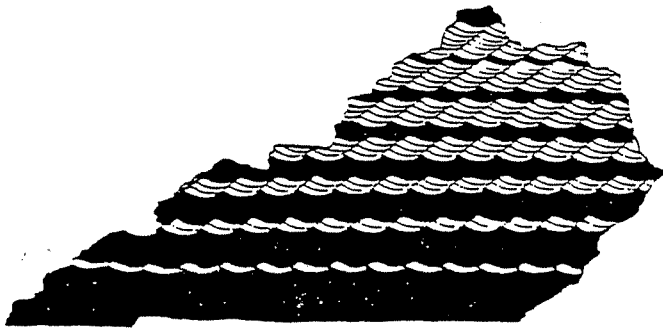
Further information on procedures and legal matters pertaining to the adjudicatory hearing may be obtained by contacting Ms. Kathy Hargraves or Mr. Arthur Williams, Office of General Counsel, at 502/564-5576.

Sincerely,

  
Donald F. Harker, Jr., Director  
Division of Water

DFH:tre  
Enclosure  
cc: Hazard District Office

KPDES



Kentucky Pollutant  
Discharge Elimination  
System

PERMIT

PERMIT NO. KY0080047

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Woodland-Preston Enterprises, Inc.  
HC 87 #1800, Preston Estates  
Paintsville, Kentucky 41240

is authorized to discharge from a facility located at

Preston Estates  
Highway 40  
Meally, Kentucky - Johnson County

to receiving waters named

Drainage ditch to Buffalo Creek

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on OCT 23 1985

This permit and the authorization to discharge shall expire at midnight,  
OCT 22 1990

9/30/85  
Date Signed

Donald F. Harker, Jr.  
Donald F. Harker, Jr., Director  
Division of Water

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
Division of Water, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s) 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>		
	Daily Avg.	Daily Max.	Daily Avg.	Other Units (Specify Daily Max.)	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.013 MGD)	-	-	-	-	One per week	Instantaneous	Effluent
Biochemical Oxygen Demand (5 day)	3.25	6.50	30 mg/l	60 mg/l	One per quarter	Composite	Effluent
Total Suspended Solids	3.25	6.50	30 mg/l	60 mg/l	One per quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	-	-	200	400	One per quarter	Grab	Effluent
Ammonia (as N)	2.17	4.34	20 mg/l	40 mg/l	One per quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 2 mg/l					One per quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:
  - a. Attain compliance with effluent limitations on the effective date of this permit.
2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice to the permit issuing authority of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.
3. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes in a more cost effective manner.

PART II  
Page II-1  
Permit No.: KY0080047

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during the previous 3 month(s) shall be summarized for each month (each quarter if monitoring frequency is quarterly) and must be reported on a Discharge Monitoring Report Form, postmarked no later than 28th day of the month following the completed reported period.

Division of Water  
Hazard District Office  
233 Birch Street  
Hazard, Kentucky 41701

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
18 Reilly Road, Ft. Boone Plaza  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:085, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

CARL H. BRADLEY  
SECRETARY



WALLACE G. WILKINSON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601  
AUG 21 1990

E. Jay Preston, President  
Woodland-Preston Estates, Incorporated  
HC87, #1800 Preston Estates  
Paintsville, Kentucky 41240

Re: NPDES No. KY0080047  
Johnson County, Kentucky

Dear Mr. Preston:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Preston Estates Subdivision. This action constitutes a final permit issuance under 401 KAR 5:075 pursuant to KRS 224.034.

This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted by the Division of Water. 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.

If you wish to request an adjudicatory hearing, you must submit the request in writing (an original and two (2) copies) to the Department of Law within thirty (30) days from the date of this letter. For your record keeping purposes, it is recommended that this request be sent by certified mail. The hearing request must conform to the requirements of KRS 224.081(2).

If you have any questions regarding this permit issuance, please contact Ms. Judy Zeigler of the Inventory and Data Management Section, Permit Review Branch at (502) 564-3410.

Further information on procedures and legal matters pertaining to the adjudicatory hearing may be obtained by contacting Ms. Kathy Hargraves, Department of Law at (502) 564-5576.

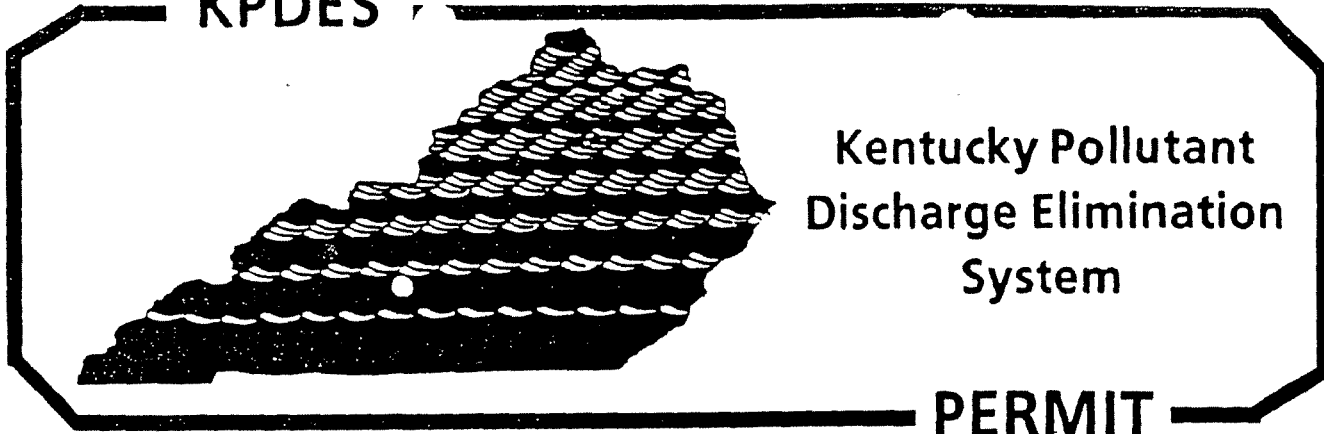
Sincerely,

A handwritten signature in cursive script, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:BT:mm  
Enclosure  
cc: Hazard Regional Office





**Kentucky Pollutant  
Discharge Elimination  
System**

**PERMIT**

Permit No.: KY0080047

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

Pursuant to Authority in KRS 224,

Woodland - Preston Estates, Inc.  
H.C. 87 #1800 Preston Estates  
Paintsville, Kentucky 41240

is authorized to discharge from a facility located at

Preston Estates Subdivision  
Preston Estates Road  
Meally, Kentucky - Johnson County

to receiving waters named

Buffalo Creek

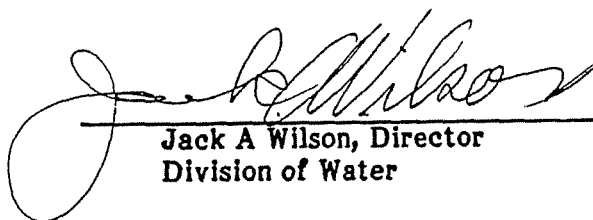
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

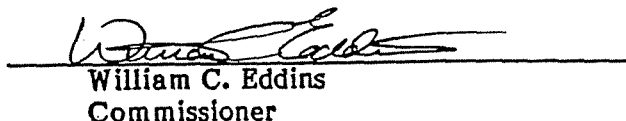
This permit shall become effective on **OCT - 1 1990**

This permit and the authorization to discharge shall expire at midnight, **SEP 30 1995**

AUG 21 1990

Date Signed

  
\_\_\_\_\_  
Jack A Wilson, Director  
Division of Water

  
\_\_\_\_\_  
William C. Eddins  
Commissioner

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
Division of Water, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s) 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>		
	lbs/day Monthly Avg.	Daily Max.	Other Units(Specify) Monthly Avg.	Measurement Frequency	Sample Type	Sampling Locatir Effluent
Flow, Design (0.013 mgd)	-	-	-	1/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5 day), Carbonaceous	2.17	4.34	20 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	3.25	6.50	30 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	-	-	200	1/Quarter	Grab	Effluent
Ammonia (as N)	0.43 1.08	0.86 2.16	4 mg/l* 10 mg/l**	1/Quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l				1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31

\*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:
  - a. Attain compliance with effluent limitations on the effective date of this permit.
2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice to the permit issuing authority of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.
3. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during the previous 3 month(s) shall be summarized for each month (each quarter if monitoring frequency is quarterly) and must be reported on a Discharge Monitoring Report Form, postmarked no later than 28th day of the month following the completed reported period.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite #1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
18 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:085, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

April 13, 2001

Keith Fairchild, President  
Appalachian Waste Control, Inc.  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: KPDES No.: KY0080047  
Preston Estates Subdivision  
Johnson, Kentucky

Dear Mr. Fairchild:

A draft Kentucky Pollutant Discharge Elimination System (KPDES) permit for your facility has been completed and the information sent to public notice as per Regulation 401 KAR 5:075, Sections 3 and 5. Enclosed for your review are copies of the public notice, draft permit, and fact sheet or statement of basis.

Your facility is being issued a permit that is shorter than the normal five-year term in order to synchronize permit issuance by watershed. The permit fee that is assessed for this short-term permit is prorated based on the permit duration. Implementation of watershed permitting will begin in the year 2002 and your targeted permit issuance date is based upon your location in the watershed basin.

**The prorated issuance fee for your KPDES permit is \$1050.** Please make your check payable to the Kentucky State Treasurer and mail it to the KPDES Branch, Division of Water upon receipt of this letter.

Feel free to contact the permit writer (referenced in the public notice) or me at (502) 564-2225, extension 465, if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Courtney Seitz".

**Courtney Seitz, Supervisor**  
Inventory and Data Management Section  
KPDES Branch  
Division of Water

CS:BCC:bcc  
Enclosures  
c: Hazard Regional Office  
Division of Water Files



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JAMES E. BICKFORD  
SECRETARY



PAUL

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**DRA**

APR 13

**STATEMENT OF BASIS**

**KPDES No.:** KY0080047      **Permit Writer:** Paul L. Beckley      **Date:** April 9, 2001

**Facility Name:** Preston Estates Subdivision

**Facility Location:** Highway 40, east of  
Paintsville, Johnson County, Kentucky

**Permitting Action:** This is a re-issuance of a permit for  
subdivision.

**Permit Duration:** Expires December 31, 2005. This expiration  
will place the facility in the correct 5-year  
cycle, as per the Kentucky Watershed Management  
Framework. In this instance, the permit  
scheduled for re-issuance in January 2006  
the Big and Little Sandy/Tygarts Basin  
Management Unit.

**Receiving Stream:** Buffalo Creek (mile 0.23)

**Stream Segment Use Classification:** Warmwater Aquatic Habitat and Primary/Secondary  
Contact Recreation

**Stream Low Flow Condition:** 0.01 cfs

**Justification of Permit Conditions:**  
The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.  
Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform, and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR  
5:045.  
Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR  
5:031.

**Antidegradation:**  
The conditions of 401 KAR 5:029, Section 1(1), have been satisfied by this permit  
action. A review under Section 1(2), (3) and (4) is not applicable.

pg



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PHILLIP J. SHEPHERD  
SECRETARY



BRERETON C. JONES  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
14 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

SEP 14 1995

Gary K. Fairchild, President  
Appalachian Waste Control, Inc.  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: NPDES No. KY0080047  
Johnson County, Kentucky

Dear Mr. Fairchild:

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

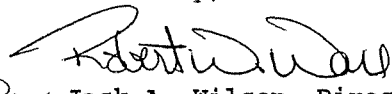
This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted. All provisions of the permit will be effective and enforceable in accordance with 401 KAR 5:075 unless stayed by the Hearing Officer under Sections 11 and 13.

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 copies of request for hearing should be submitted in writing to the Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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 Ms. Judy Zeigler, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Hon. Barbara Foster, Division of Hearings, at (502) 564-7312.

Sincerely,

  
for Jack A. Wilson, Director  
Division of Water

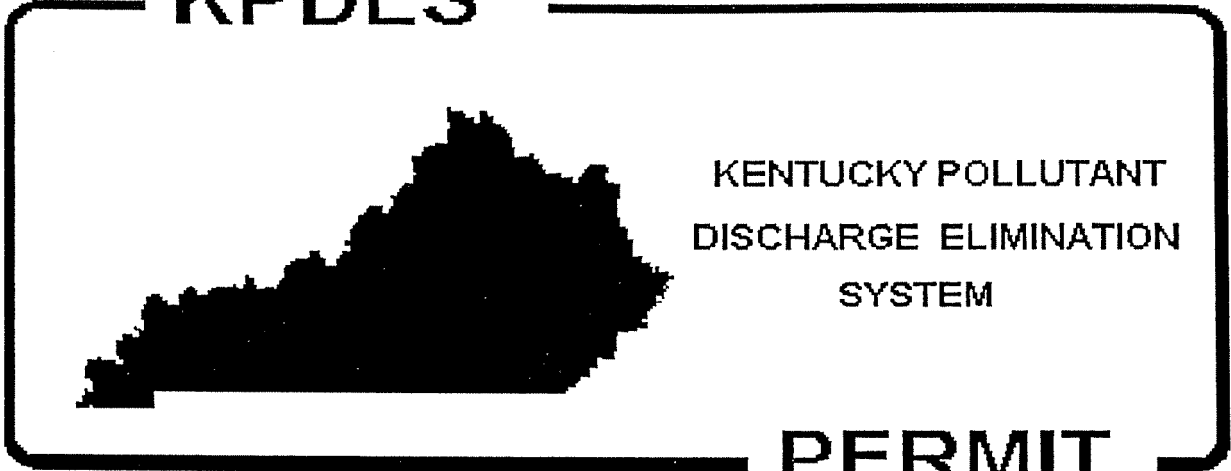
JAW:BT  
Enclosure  
c: Hazard Regional Office



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# KPDES



PERMIT NO. KY0080047

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

Pursuant to Authority in KRS 224,

Appalachian Waste Control  
2656 Route 2039  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Preston Estates Subdivision  
Highway 40, east of Paintsville  
Johnson County, Kentucky

to receiving waters named

Buffalo Creek (mile 0.23)

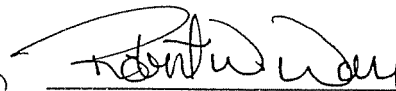
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on **NOV 1 1995**

This permit and the authorization to discharge shall expire at midnight, **OCT 31 200**

**SEP 14 1995**

Date Signed

*for*   
\_\_\_\_\_  
Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s): 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS		Sampling Location		
	lbs/day Monthly Avg.	lbs/day Daily Max.	Other Units Monthly Avg.	Report		Measurement Frequency	Sample Type
Flow, Design (0.013 mgd)	N/A	N/A	Report	Report	5/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5 day), Carbonaceous	2.17	4.34	20 mg/l	40 mg/l	1/Month	Composite	Effluent
Total Suspended Solids	3.25	6.50	30 mg/l	60 mg/l	1/Month	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	400	1/Month	Grab	Effluent
Ammonia (as N)	0.43	0.87	4 mg/l*	8 mg/l*	1/Month	Composite	Effluent
	1.08	2.17	10 mg/l**	20 mg/l**	1/Month	Grab	Effluent
Dissolved Oxygen shall not be less than 7 mg/l							

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31

\*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations on the effective date of this permit.
2. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

**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.

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results must be obtained for each month and reported on a preprinted Discharge Monitoring Report (DMR) Form which will be mailed to you each quarter for the upcoming quarter. The completed DMRs for each month must be sent to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:080 and KRS 224, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

2002 FEB 15 P 1:26

RECEIVED BY PERMITS BRANCH

Lance Bowling  
Box 53 George Branch  
East Point, KY 41216

February 13, 2002

Division of Water  
Permits Branch  
14 Reilly Road  
Frankfort, KY 40601

Dear Sir:

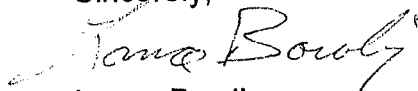
As of February 1, 2002 I have accepted ownership of five waste water systems previously owned by Appalachian Waste Control.

The plants are as follows:

Burkeshire Estates	KY 0102687
Preston Estates	KY0080047
Neil Price Estates	KY0097225
Richmond Hill Estates	KY0093823
Paradise Village	KY0076686

I began operation and maintenance on the systems on February 1, 2002. I am also working on all paperwork to complete the transfer.

Sincerely,



Lance Bowling  
Class I Certificate # 01485

Johnson

2002 FEB 13 P 12:31

Gary Keith Fairchild  
2656 KY RT 2039  
Hager Hill, KY 41222

February 13, 2002

Division of Water  
Permits Branch  
Frankfort Office Park,  
14 Reilly Road  
Frankfort, KY 40601

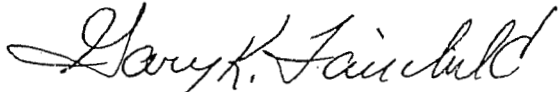
Dear Sir:

This letter is to notify the KY Division of Water that as of February 1, 2002, that all Waste Water Systems owned by Appalachian Waste Control have been given away. A list of these systems is included with this letter.

Mr. Lance Bowling, **Class I Certification Number 01485** has accepted the systems. He is currently certified by KY Division of Water in Waste Water Operation. He began operation and maintenance of the systems as of February 1, 2002.

Both parties are proceeding with the paperwork needed to complete the transfers.

Sincerely,



Gary Keith Fairchild

Neil Price Subdivision  
Preston Estates  
Richmond Hills Estates  
Paradise Village  
Burkeshire Estates

KY0097225  
KY0080047  
KY0093823  
KY0076686  
KY0102687



JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**MAY 17 2001**

Keith Fairchild, President  
Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: Preston Estates Subdivision  
KPDES No.: KY0080047  
Johnson County, Kentucky

Dear Mr. Fairchild:

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.

Your facility is being issued a permit that is shorter than the normal five-year term in order to synchronize permit issuance by watershed. The permit fee that is assessed for this short-term permit is prorated based on the permit duration. Implementation of watershed permitting will begin in the year 2001 and your targeted permit issuance is based upon your location in the watershed basin.

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 Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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.



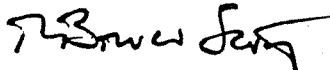
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Mr. Keith Fairchild  
Preston Estates Subdivision/KY0080047  
Page Two

If you have any questions regarding the KPDES decision, please contact Courtney Seitz, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

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,



Jack A. Wilson, Director  
Division of Water

JAW:NG:ng  
Enclosure

c: Hazard Regional Office  
Division of Water Files



COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**STATEMENT OF BASIS**

**KPDES No.:** KY0080047    **Permit Writer:** Paul L. Beckley    **Date:** April 9, 2001

**Facility Name:** Preston Estates Subdivision

**Facility Location:** Highway 40, east of  
Paintsville, Johnson County, Kentucky

**Permitting Action:** This is a re-issuance of a permit for a subdivision.

**Permit Duration:** Expires December 31, 2005. This expiration date will place the facility in the correct 5-year cycle, as per the Kentucky Watershed Management Framework. In this instance, the permit is scheduled for re-issuance in January 2006 for the Big and Little Sandy/Tygarts Basin Management Unit.

**Receiving Stream:** Buffalo Creek (mile 0.23)

**Stream Segment Use Classification:** Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation

**Stream Low Flow Condition:** 0.01 cfs

**Justification of Permit Conditions:**

The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.

Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform, and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

**Antidegradation:**

The conditions of 401 KAR 5:029, Section 1(1), have been satisfied by this permit action. A review under Section 1(2), (3) and (4) is not applicable.

pg



# KPDÉS



## KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

# PERMIT

PERMIT NO.: KY0080047

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

Pursuant to Authority in KRS 224,

Keith Fairchild, President  
Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Preston Estates Subdivision  
Highway 40, east of  
Paintsville, Johnson County, Kentucky

to receiving waters named

Buffalo Creek (mile 0.23)

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in PARTS I, II, and III hereof. The permit consists of this cover sheet, and PART I 2 pages, PART II 1 page, and PART III 1 page.

This permit shall become effective on **JUL 1 2001**

This permit and the authorization to discharge shall expire at midnight, December 31, 2005.

**MAY 17 2001**

Date Signed

A handwritten signature in black ink, appearing to read "Jack A. Wilson", written over a horizontal line.

Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

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A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from Outfall serial number: 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>				
	Monthly Avg.	Daily Max.	lbs/day	Other Units (Specify) Monthly Avg.	Daily Max.	Report	Measurement Frequency	Sample Type
Flow, Design (0.013 mgd)	N/A	N/A	N/A	Report	Report	5/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5-day), Carbonaceous	2.17	4.34	20 mg/l	40 mg/l	400	1/Week	Composite	Effluent
Total Suspended Solids	3.25	6.51	30 mg/l	60 mg/l	400	1/Week	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	400	400	1/Week	Grab	Effluent
Ammonia (as N)	0.43	0.87	4 mg/l*	8 mg/l*	20 mg/l**	1/Week	Composite	Effluent
	1.08	2.17	10 mg/l**	20 mg/l**		1/Week	Composite	Effluent

Dissolved Oxygen shall not be less than 7 mg/l

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: nearest accessible point after final treatment, but prior to actual discharge or mixing with receiving waters.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. 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.

**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.

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results must be obtained for each month and reported on a preprinted Discharge Monitoring Report (DMR) form that will be mailed to you each quarter for the upcoming quarter. The completed DMRs for each month must be sent to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28<sup>th</sup> day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
Attn: Supervisor

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water/KPDES Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.



JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

February 27, 2002

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Preston Estates  
KPDES Permit No.: KY0080047  
Johnson County, Kentucky

Dear Mr. Bowling:

The Division of Water received the Change in Ownership Certification for the above-referenced facility. The Kentucky Pollutant Discharge Elimination System (KPDES) permit has been revised to reflect this change. Enclosed is a copy of the KPDES permit with the revised page.

If you have any questions, please contact Pete Beckley, of my staff, at (502) 564-2225, extension 469.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Scott".

**R. Bruce Scott, P.E.**  
Environmental Engineer Branch Manager  
KPDES Branch  
Division of Water

RBS:PB:pg  
Enclosure

c: Hazard Regional Office  
Division of Water Files



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KPD IS



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

PERMIT

PERMIT NO.: KY0080047

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

This permit is transferred to:

Keith Fairchild, President  
Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

is authorized to discharge from a facility located at

Preston Estates Subdivision  
Highway 40, east of  
Paintsville, Johnson County, Kentucky

Effective Date: 2/27/02

to receiving waters named

Buffalo Creek (mile 0.23)

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in PARTS I, II, and III hereof. The permit consists of this cover sheet, and PART I 2 pages, PART II 1 page, and PART III 1 page.

This permit shall become effective on **JUL 1 2001**

This permit and the authorization to discharge shall expire at midnight, December 31, 2005.

MAY 17 2001

Date Signed

Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601



COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**MEMORANDUM**

**TO:** Barbara A. Foster, General Counsel  
Office of Legal Services

**THRU:** Robert W. Logan, Commissioner *RW Logan*  
Department for Environmental Protection

Jack A. Wilson, Director *for JAW*  
Division of Water

**FROM:** Gary F. Levy, Manager *GFL*  
Enforcement Branch  
Division of Water

**DATE:** June 5, 2001

**SUBJECT:** Case Referral for Legal Action  
Gary Keith Fairchild d.b.a. Appalacian Waste Control, Inc.  
Division of Water Case No. DOW 01031  
KPDES permit No. KY0080047  
Johnson County, Kentucky

**NAME OF FACILITY:** Preston Estates Subdivision

**RESPONSIBLE PARTY:** Gary Keith Fairchild

**ADDRESS:** 2656 Route 2039  
Hager Hill, Kentucky 41222

**ORGANIZATIONAL STRUCTURE:** Kentucky Corporation in bad standing.

**TYPE OF FACILITY:** Waste water treatment plant.



**INSPECTION,  
CITATION, AND  
DESCRIPTION OF  
VIOLATIONS:**

Notice of Violation issued January 24, 2001 by KPDES Branch for failure to pay KPDES permit fee, 401 KAR 5:060, Section 1.

Inspection by Division of Water Hazard Regional Office was conducted on May 14, 2001.

Notice of Violation issued May 21, 2001 by Hazard Regional Office:

1. Failure to properly operate plant in compliance with Division of Water regulations: 401 KAR 5:035
2. Failure to submit DMRs: 401 KAR 5:065
3. Degradation of the Waters of the Commonwealth: 401 KAR 5:031

**WITNESS:**

Taunya Huff, Environmental Technologist II  
Underground Storage Tank Branch  
Division of Waste Management  
14 Reilly Road  
Frankfort, Kentucky 40601  
(502) 564-6716

**PRINCIPAL ELEMENTS  
OF PROOF:**

Inspection Reports - attached  
Notices of Violation - attached  
Correspondence - attached  
Photographs - available upon request  
Testimony - available upon request

**RELIEF REQUESTED:**

The Enforcement Branch believes that civil penalties should be maximum, however \$5000 is the minimum assessment that should be considered in connection with any settlement in this matter.

**REMEDIAL MEASURES:**

Commencing immediately, Mr. Fairchild shall provide in accordance with KAR 5:065, proper operation and maintenance of the facility. Commencing immediately, Mr. Fairchild shall be in compliance with all effluent discharge limits and other terms and conditions of KPDES permit No. KY0080047.

**COMMENTS:**

The Enforcement Branch has combined cases DOW00162 and DOW01031. DOW00162 was referred to the Office of Legal Services on May 10, 2001. Susan Silverman is the assigned attorney. Mr. Fairchild is currently a Class III certified waste water operator holding certificate No. WW04966, expiring June 30, 2001. He will be referred to the Waterwater Operator Certification Board for review of his actions and a recommendation regarding sanctions, if any, concerning his license.

**DIVISION OF WATER**

**CONTACT PERSON:**

**Cathleen Adams, Enforcement Specialist**  
Western Case Preparation Section  
Enforcement Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601  
(502) 564-3410, extension 172

CSA

CC: Hazard Regional Office  
Enforcement File

*KPDES Br.*

*JFA*

DOW:  
C: Hazardous  
KPOES Br.

AI 2401

PCS  
KY0080047  
Ø CP

Johnson Co. <sup>KW</sup>  
**FILED**  
APR 23 2003

COMMONWEALTH OF KENTUCKY

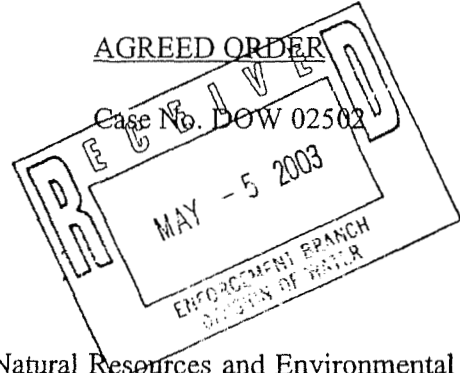
Office of Administrative Hearings  
*Winters*

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

IN THE MATTER OF:

Jeffery Lance Bowling  
d/b/a East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216



\*\*\*\*\*

WHEREAS, the parties to this Agreed Order, the Natural Resources and Environmental Protection Cabinet (hereinafter the Cabinet) and Jeffery Lance Bowling d/b/a East Kentucky Waste Control (hereinafter Mr. Bowling) state:

1. The Cabinet is charged with the statutory duty of enforcing KRS Chapter 224 and the regulations promulgated pursuant thereto.
2. Mr. Bowling owns and operates a wastewater treatment facility serving the Preston Estates Subdivision located in Johnson County, Kentucky. Mr. Bowling holds Kentucky Pollutant Discharge System Permit No. KY0080047 for this facility.
3. On September 23, 2002, authorized representatives of the Cabinet identified the following violations of KRS Chapter 224 and the regulations promulgated pursuant thereto at the facility described in paragraph 2 above:
  - a. degradation of the waters of the Commonwealth, a violation of 401 KAR 5:031;
  - b. failure to provide proper treatment, a violation of 401 KAR 5:035; and
  - c. failure to provide proper operation and maintenance; and failure to meet permit limits, violations of 401 KAR 5:065.
4. On October 4, 2002, the Cabinet issued a Notice of Violation to Mr. Bowling for the violations described in paragraph 3 above.
5. Mr. Bowling attended an administrative conference at the Cabinet's Division of Water in Frankfort, Kentucky, on January 7, 2003, and admitted all the violations described in this Agreed Order.

NOW THEREFORE, in the interest of settling all civil claims and controversies involving the violations described above, the parties hereby consent to the entry of this Agreed Order and agree as follows:

### REMEDIAL MEASURES

6. Mr. Bowling shall provide, in accordance with 401 KAR 5:065, proper operation and maintenance of his facility, to include creation of log books and other operation and maintenance records.

7. Mr. Bowling shall be in compliance with all effluent discharge limits and all other terms and conditions of KPDES permit No. KY0080047, and KRS Chapter 224 and the regulations promulgated thereto, by February 1, 2003.

8. Mr. Bowling shall report all spills, discharges, upset conditions discharges or other releases of substances which would result in or contribute to the pollution of the waters of the Commonwealth, including emergency and accidental releases, in accordance with KRS 224.01-400, 401 KAR 5:015, and 401 KAR 5:065.

### PENALTY

9. Mr. Bowling shall pay the Cabinet a performance civil penalty in the amount of two thousand dollars (\$2,000), within ten (10) days of receipt of written notice from the Cabinet for each failure to comply with any requirement of this Order. This penalty is in addition to, and not in lieu of, any other penalty that could be assessed. The additional penalty specified in this paragraph only shall be waived after a period of one year from the date of execution of this Order by the Secretary of the Natural Resources and Environmental Protection Cabinet if all terms of this Order have been complied with.

10. Mr. Bowling shall tender all penalty payments to the Cabinet by certified check, cashier's check or money order, **payable to the Kentucky State Treasurer**. Payment shall be tendered to the Kentucky Division of Water, Enforcement Branch, 14 Reilly Road, Frankfort, Kentucky 40601. Note "Case No. DOW 02502" on the instrument of payment.

### MISCELLANEOUS PROVISIONS

11. This Agreed Order addresses only those violations specifically described above. Nothing contained herein shall be construed to waive or to limit any remedy or cause of action by the Cabinet based on statutes or regulations under its jurisdiction, and Mr. Bowling reserves his defenses thereto. The Cabinet expressly reserves its right at any time to issue administrative orders and to take any other action it deems necessary, including the right to order all necessary remedial measures, assess penalties for violations, or recover all response costs incurred, and Mr. Bowling reserves his defenses thereto.

12. This Agreed Order shall not prevent the Cabinet from issuing, reissuing, renewing,

modifying, revoking, suspending, denying, terminating, or reopening any permit to Mr. Bowling. Mr. Bowling reserves his defenses thereto, except that Mr. Bowling shall not use this Agreed Order as a defense.

13. Mr. Bowling waives his right to any hearing on the matters alleged herein. However, failure by Mr. Bowling, to comply strictly with the terms of this Agreed Order shall be grounds for the Cabinet to seek enforcement of this Agreed Order in Franklin Circuit Court and to pursue any other appropriate administrative or judicial action under KRS Chapter 224 and the regulations promulgated pursuant thereto.

14. Each separate provision, condition or duty contained in this Agreed Order may be the basis for an enforcement action for a separate violation and penalty pursuant to KRS Chapter 224 upon failure to comply with the terms of this Agreed Order.

15. This Agreed Order may not be amended except by a written order of the Cabinet's Secretary or his designee. Mr. Bowling may request an amendment by writing the Director of the Division of Water at 14 Reilly Road, Frankfort, Kentucky 40601 and stating the reasons for the request. If such request is granted, the amended Agreed Order shall not affect any provision of this Agreed Order unless expressly provided in the amended Agreed Order.

16. The Cabinet does not, by its consent to the entry of this Agreed Order, warrant or aver in any manner that Mr. Bowling's complete compliance with this Agreed Order will result in compliance with the provisions of KRS Chapter 224, and the regulations promulgated pursuant thereto. Notwithstanding the Cabinet's review and approval of any plans formulated pursuant to this Agreed Order, Mr. Bowling shall remain solely responsible for compliance with the terms of KRS Chapter 224 and the regulations promulgated pursuant thereto, this Agreed Order and any permit requirements.

17. The provisions of this Agreed Order shall apply to and be binding upon Mr. Bowling. The acts or omissions of Mr. Bowling's officers, directors, agents, and employees shall not excuse the performance of any provision of this Agreed Order. The Cabinet reserves the right to seek enforcement of this Agreed Order against the successors and assigns of Mr. Bowling, and Mr. Bowling reserves his defenses thereto. Mr. Bowling shall give notice of this Agreed Order to any purchaser, lessee or successor in interest prior to the transfer of ownership and/or operation of any of his now-existing property occurring prior to termination of this Agreed Order, shall notify the Cabinet that such notice has been given, and shall follow all statutory and regulatory requirements for a transfer. Whether or not a transfer takes place, Mr. Bowling shall remain fully responsible for payment of all civil penalties and for performance of all remedial measures identified in this Agreed Order.

18. The Cabinet agrees to allow the performance of the above-listed remedial measures and payment of civil penalties by Mr. Bowling to satisfy Mr. Bowling's obligations to the Cabinet generated by the violations described above.

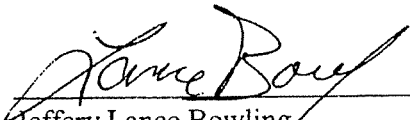
19. The Cabinet and Mr. Bowling agree that the remedial measures agreed to herein are



facility-specific and designed to comply with the statutes and regulations cited herein. The Agreed Order applies specifically and exclusively to the unique facility referenced herein and is inapplicable to any other site or facility.

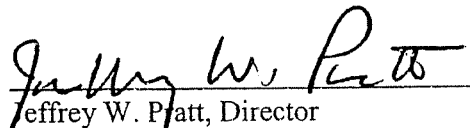
20. This Agreed Order shall be of no force and effect unless and until it is entered by the Secretary or his designee as evidenced by his signature thereon. If this Agreed Order contains any date by which Mr. Bowling is to take any action, and the Secretary enters the Agreed Order after that date, then Mr. Bowling is nonetheless obligated to have taken the action by the date contained in this Agreed Order.

AGREED TO BY:

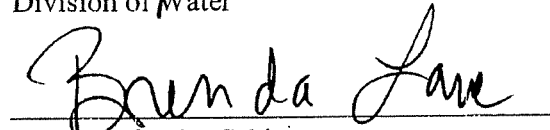
  
\_\_\_\_\_  
Jeffery Lance Bowling  
d/b/a East Kentucky Waste Control

3/5/03  
DATE

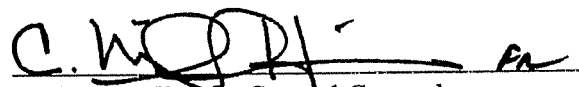
APPROVAL RECOMMENDED BY:

  
\_\_\_\_\_  
Jeffrey W. Pratt, Director  
Division of Water

4/4/03  
DATE

  
\_\_\_\_\_  
Attorney for the Cabinet  
Office of Legal Services

4-14-03  
DATE

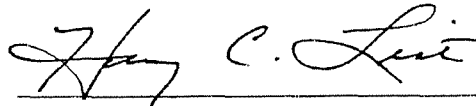
  
\_\_\_\_\_  
Barbara A. Foster, General Counsel  
Office of Legal Services

4-14-03  
DATE

Case No. DOW 02502

ORDER

WHEREAS, the foregoing Agreed Order is entered as the final Order of the Natural Resources and Environmental Protection Cabinet this 23<sup>rd</sup> day of April, 2003.



---

HENRY C. LIST, SECRETARY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing AGREED ORDER was mailed, postage prepaid, to the following this 23<sup>rd</sup> day of April, 2003.

Mr. Lance Bowling  
d/b/a East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Sammy W. W. W.  
DOCKET COORDINATOR

DISTRIBUTION:

Division of Water  
Order File  
Attorney, Office of Legal Services

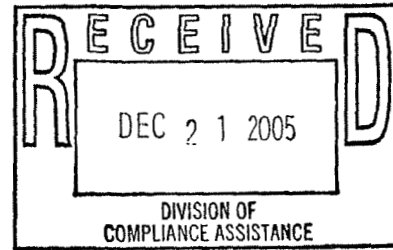
LTS  
GDM

To. division of compliance assistance

I, Larry Stambaugh, a certified class III waste water operator will be taking over the operation and maintenance of 5 residential package plants for East Kentucky Waste Control. Lance Bowling is and will remain to be the owner of the company and plants, but lost his license and is no longer certified to run the plants. My certification number if needed is 13665. Lance Bowling will also need to be taken off as the operator.

The 5 plants are in Johnson county. The names and certification numbers are as followed: Burkshire Estates Ky0102687, Richmond hills Ky0093823, Neil Price subdivision Ky0097225, Paradise Village Ky0076686, Preston Estates Ky0080047.

Larry Stambaugh



COUNTY: JOHNSON  
FACILITY: PARADISE, PRESTON, NEAL PRICE, BURKESHIRE, RICHMOND HILLS  
I.D. # 2396, 2401, 2392, 2409  
SECTION: KPDES  
SENT BY: CSA BRANCH DENE

AI 33350  
LARRY STAMBAUGH

AI 27918  
JEFFREY LANCE BOWLING

February 26, 2006

Ms. Vicky Prather  
Natural Resources and Environmental Protection  
Division of Water- K.P.D.E.S. Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, KY 40601

Dear Ms. Prather:

Effective March 1, 2006, please send all K.P.D.E.S. Discharge Monitoring Reports for the following facilities:

Paradise Village Subdivision,	Johnson County	<u>KY0076686</u>
Bush Gardens,	Johnson County	<u>KY0103853</u>
Burkshire Development,	Johnson County	<u>KY0102687</u>
Neal Price Subidivision,	Johnson County	<u>KY0097225</u>

to the following address:

McCoy & McCoy Laboratories  
Attn: D.M.R. Coordinator  
P.O. Box 907, 825 Industrial Road  
Madisonville, KY 42431

Sincerely,

FACILITY: \_\_\_\_\_

CONTACT: Larry Stambay

TITLE: operator

INPUT INTO PCS



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

LAJUANA S. WILCHER  
SECRETARY

November 9, 2006

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: KPDES Permit Fee Due  
Preston Estates Subdivision  
KPDES No.: KY0080047  
Johnson County, Kentucky

Dear Mr. Bowling:

The Kentucky Pollutant Discharge Elimination System (KPDES) permit for the above-referenced facility has been finalized and is ready for issuance in accordance with 401 KAR 5:075, and pursuant to KRS 224.16-050.

**The KPDES permit fee due is \$1200.00.** Please make your check or money order payable to the Kentucky State Treasurer and mail it to the Division of Water, KPDES Branch, Inventory and Data Management Section, 14 Reilly Road, Frankfort, Kentucky 40601, within thirty (30) days of the date of this letter. For your record keeping purposes, it is recommended that the fee be sent by certified mail.

If you have any questions concerning this matter, please contact me at (502) 564-2225, extension 402.

Sincerely,

**Nancy Green, Program Coordinator**  
Inventory and Data Management Section  
KPDES Branch  
Division of Water

NG:ng  
c: Division of Water Files

CARL H. BRADLEY  
SECRETARY



WALLACE G. WILKINSON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601  
AUG 2 1 1990

E. Jay Preston, President  
Woodland-Preston Estates, Incorporated  
HC87, #1800 Preston Estates  
Paintsville, Kentucky 41240

Re: NPDES No. KY0080047  
Johnson County, Kentucky

Dear Mr. Preston:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Preston Estates Subdivision. This action constitutes a final permit issuance under 401 KAR 5:075 pursuant to KRS 224.034.

This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted by the Division of Water. 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.

If you wish to request an adjudicatory hearing, you must submit the request in writing (an original and two (2) copies) to the Department of Law within thirty (30) days from the date of this letter. For your record keeping purposes, it is recommended that this request be sent by certified mail. The hearing request must conform to the requirements of KRS 224.081(2).

If you have any questions regarding this permit issuance, please contact Ms. Judy Zeigler of the Inventory and Data Management Section, Permit Review Branch at (502) 564-3410.

Further information on procedures and legal matters pertaining to the adjudicatory hearing may be obtained by contacting Ms. Kathy Hargraves, Department of Law at (502) 564-5576.

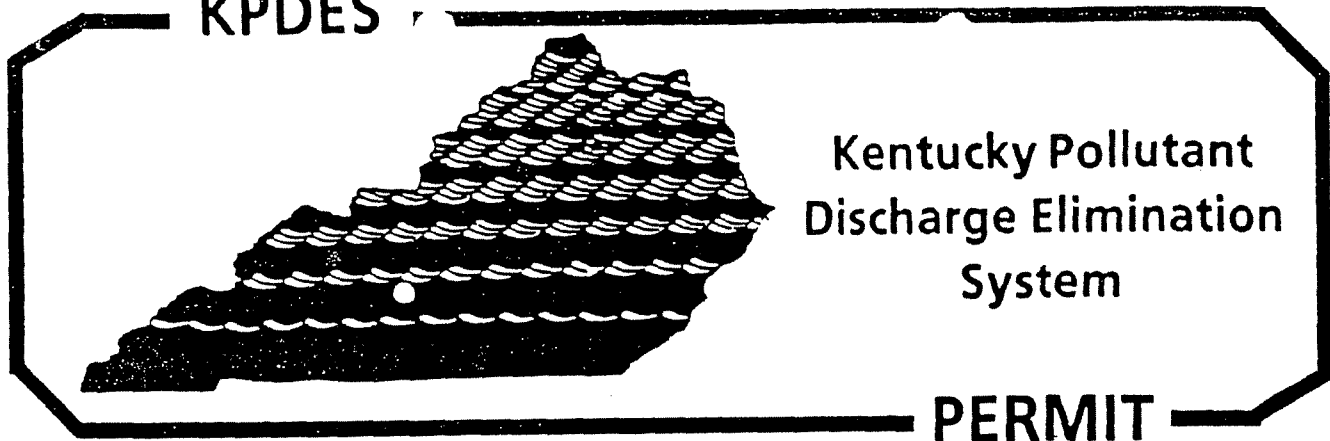
Sincerely,

A handwritten signature in cursive script, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:BT:mm  
Enclosure  
cc: Hazard Regional Office

KPDES



**Kentucky Pollutant  
Discharge Elimination  
System**

**PERMIT**

Permit No.: KY0080047

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

Pursuant to Authority in KRS 224,

Woodland - Preston Estates, Inc.  
H.C. 87 #1800 Preston Estates  
Paintsville, Kentucky 41240

is authorized to discharge from a facility located at

Preston Estates Subdivision  
Preston Estates Road  
Meally, Kentucky - Johnson County

to receiving waters named

Buffalo Creek

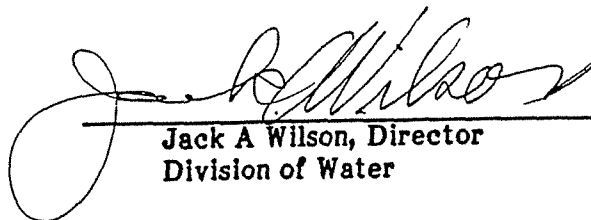
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

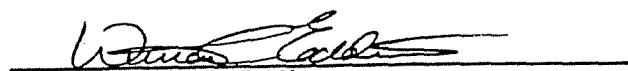
This permit shall become effective on **OCT - 1 1990**

This permit and the authorization to discharge shall expire at midnight, **SEP 3 0 1995**

AUG 2 1 1990

Date Signed

  
\_\_\_\_\_  
Jack A Wilson, Director  
Division of Water

  
\_\_\_\_\_  
William C. Eddins  
Commissioner

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
Division of Water, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601



**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s) 001, Sanitary Wastewater.

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>			
	lbs/day Monthly Avg.	Daily Max.	Other Units(Specify) Monthly Avg.	Daily Max.	Measurement Frequency	Sample Type	Sampling Locati on
Flow, Design (0.013 mgd)	-	-	-	-	1/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5 day), Carbonaceous	2.17	4.34	20 mg/l	40 mg/l	1/Quarter	Composite	Effluent
Total Suspended Solids	3.25	6.50	30 mg/l	60 mg/l	1/Quarter	Composite	Effluent
Fecal Coliform Bacteria, N/100	-	-	200	400	1/Quarter	Grab	Effluent
Ammonia (as N)	0.43 1.08	0.86 2.16	4 mg/l* 10 mg/l**	8 mg/l* 20 mg/l**	1/Quarter	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l					1/Quarter	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31

\*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:
  - a. Attain compliance with effluent limitations on the effective date of this permit.
2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice to the permit issuing authority of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.
3. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during the previous 3 month(s) shall be summarized for each month (each quarter if monitoring frequency is quarterly) and must be reported on a Discharge Monitoring Report Form, postmarked no later than 28th day of the month following the completed reported period.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite #1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
18 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:085, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

PHILLIP J. SHEPHERD  
SECRETARY



BRERETON C. JONES  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

SEP 14 1995

Gary K. Fairchild, President  
Appalachian Waste Control, Inc.  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: NPDES No. KY0080047  
Johnson County, Kentucky

Dear Mr. Fairchild:

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

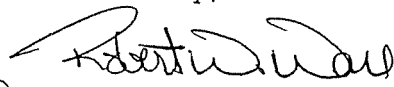
This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted. All provisions of the permit will be effective and enforceable in accordance with 401 KAR 5:075 unless stayed by the Hearing Officer under Sections 11 and 13.

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 copies of request for hearing should be submitted in writing to the Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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 Ms. Judy Zeigler, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Hon. Barbara Foster, Division of Hearings, at (502) 564-7312.

Sincerely,

  
for Jack A. Wilson, Director  
Division of Water

JAW:BT  
Enclosure  
c: Hazard Regional Office



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An Equal Opportunity Employer M/F/D

# KPDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

# PERMIT

PERMIT NO. KY0080047

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

Pursuant to Authority in KRS 224,

Appalachian Waste Control  
2656 Route 2039  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Preston Estates Subdivision  
Highway 40, east of Paintsville  
Johnson County, Kentucky

to receiving waters named

Buffalo Creek (mile 0.23)

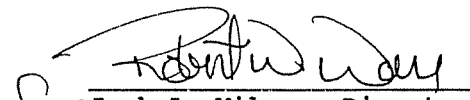
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on **NOV 1 1995**

This permit and the authorization to discharge shall expire at midnight, **OCT 31 200**

**SEP 14 1995**

Date Signed

*for*   
\_\_\_\_\_  
Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s): 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
	Monthly Avg.	lbs/day Daily Max.	Other Units (Specify) Monthly Avg.	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.013 mgd)	N/A	N/A	Report	5/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5 day), Carbonaceous	2.17	4.34	20 mg/l	1/Week	Composite	Effluent
Total Suspended Solids	3.25	6.50	30 mg/l	1/Week	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	1/Week	Grab	Effluent
Ammonia (as N)	0.43	0.87	4 mg/l*	1/Week	Composite	Effluent
	1.08	2.17	10 mg/l**	1/Week	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l				1/Week	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations on the effective date of this permit.
2. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.



**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results must be obtained for each month and reported on a preprinted Discharge Monitoring Report (DMR) Form which will be mailed to you each quarter for the upcoming quarter. The completed DMRs for each month must be sent to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

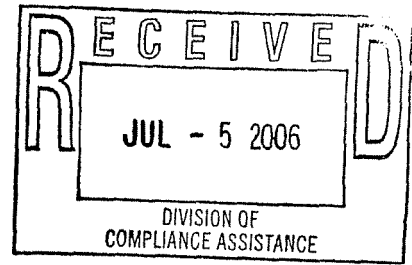
B. Reopener Clause

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 thru 5:080 and KRS 224, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

Larry M Stambaugh  
14 Reilly Road  
Frankfort, KY 40601  
(502) 225-1175



AI # 33350

June 30, 2006

Wastewater Certification Section  
14 Reilly Road  
Frankfort, Ky 40601

To Whom It May Concern:

This letter is to notify you that I Larry M Stambaugh certification # 13665, agency interest # 33350 will no longer be the operator for the following sewer package treatment plants effective June 30, 2006.

Plant Name	Permit Number
Richmond Hills Estates	KY0093823
Preston Estates Subdivision	KY0080047
Burkeshire Development Subdivision	KY0102687
Neal Price Subdivision	KY0097225
Paradise Valley Subdivision	KY0076686

Sincerely,

Larry M Stambaugh

A handwritten signature in cursive script that reads "Larry M Stambaugh".

## **APPENDIX E**

Johnson County  
file

MEMORANDUM

TO: Carl VanCleve, Director  
Division of Plumbing  
Department of Housing, Buildings,  
and Construction

FROM: John T. Smither  
Division of Water  
Department for Natural Resources  
and Environmental Protection

DATE: JUL 15 1982

SUBJECT: Richmond Hills Estate  
Eastern Kentucky Homes, Inc.  
VanLear, Johnson County, Kentucky

This memorandum is to request that the Division of Plumbing, in accordance with its laws and regulations, cease to issue plumbing permits to the above-referenced facility in Johnson County until further notice from the Division of Water. The Division of Water has initiated enforcement proceedings concerning the water supply and sewerage systems serving Richmond Hills Estate which were both installed without prior approval or a construction permit as required by the Division of Water's regulations 401 KAR 6:015 and 401 KAR 5:005.

The Division of Water requests that the Division of Plumbing not issue permits for any proposed expansions of the water and/or sewer systems operated by Eastern Kentucky Homes, Inc. for Richmond Hills Estate until the systems have come into compliance with and satisfy the regulations under the jurisdiction of this Division.

Should you have any questions concerning this matter, please contact Mr. Clyde P. Baldwin, at (502) 564-3410, extension 404.

JTS:lcc

cc: Operations and Enforcement Branch  
London District Office

CASE # 86078  
Johnson Co.  
Richmond Hills Estates  
NO KPDES

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET  
FILE NO. 4868-W-21

W J  
FILED

FEB 23 1988  
PLAINTIFF  
DIVISION OF HEARINGS

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

VS. AGREED ORDER

FIRST COMMONWEALTH BANK

DEFENDANT

\*\*\*\*\*

WHEREAS, the Natural Resources and Environmental Protection Cabinet (hereinafter "Cabinet") filed its complaint against First Commonwealth Bank on April 27, 1987, alleging violations of KRS Chapter 224 and the regulations promulgated pursuant thereto;

WHEREAS, the basis for that administrative complaint was First Commonwealth Bank's ownership by foreclosure of the tract of land upon which is situated a sewage treatment plant;

WHEREAS, First Commonwealth Bank admits its ownership of the tract of land in question and its ownership of the sewage treatment plant situated thereon;

WHEREAS, First Commonwealth Bank has announced its intention of divesting itself of the tract of land in question and of the sewage treatment plant situated thereon;

WHEREAS, Appalachian Waste Control, Inc. has announced its intention of acquiring the tract of land and the sewage treatment plant situated thereon;

WHEREAS, First Commonwealth Bank has applied to the Public Service Commission to abandon the sewage system in question;

WHEREAS, Appalachian Waste Control, Inc. has applied to the Public Service Commission to approve rates and tariffs necessary to properly operate the sewage system in question;

WHEREAS, the Public Service Commission staff has advised the parties that it will recommend to the Commission disapproval of Appalachian Waste Control, Inc.'s application to operate the sewage system in question and to assess rates and tariffs for service to residents served by the plant, unless Appalachian Waste Control, Inc. is able to provide service without assessing an initial surcharge to the local residents.

NOW, THEREFORE, come the parties and agree as follows:

1. First Commonwealth Bank shall expend the monies necessary to make the sewage treatment plant, its lift stations and collection lines ("sewage treatment plant") operational, with that expenditure to begin immediately upon entry of this agreed order.

2. Appalachian Waste Control, Inc. shall apply for Kentucky Pollutant Discharge Elimination System and construction permits and shall submit plans and specifications for any alterations to the sewage treatment plant, within thirty (30) days after entry of this agreed order.

3. In the event of Appalachian Waste Control, Inc.'s failure to timely submit approvable applications, plans and specifications in accordance with paragraph 2 above, First Commonwealth Bank shall make immediate application for those permits and submit the appropriate plans and specifications.

4. The Cabinet does not release by this agreed order First Commonwealth Bank's obligation to acquire all permits necessary to bring the sewage system into compliance with KRS Chapter 224 and the regulations promulgated pursuant thereto, but will accept Appalachian Waste Control, Inc.'s performance of those duties in lieu of First Commonwealth's Bank's.

5. When the sewage treatment plant is operational, and in conformance with KRS Chapter 224 and the regulations promulgated pursuant thereto, First Commonwealth Bank shall notify the Cabinet so that the Cabinet can inspect the sewage treatment plant, which inspection shall be conducted within ten (10) working days thereafter.

6. If inspection indicates that the sewage treatment plant is operational, and in conformance with KRS Chapter 224 and the regulations promulgated pursuant thereto, the Cabinet will, within ten (10) working days after the inspection, notify First Commonwealth Bank and the Public Service Commission.

7. If the Public Service Commission approves the transfer of the sewage treatment plant from First Commonwealth Bank to Appalachian Waste Control, Inc., First Commonwealth Bank's obligations under this Agreed Order and pursuant to KRS Chapter 224 and the regulations promulgated pursuant thereto, with reference to that system, shall be terminated in their entirety, including its obligations under paragraph 4 above. Appalachian Waste Control, Inc. shall then become responsible for operation of the sewage treatment plant.

8. If the Public Service Commission disapproves the transfer of the sewage treatment plant from First Commonwealth Bank to Appalachian Waste Control, Inc., First Commonwealth Bank's obligation to operate the sewage treatment plant in conformance with KRS Chapter 224 and the regulations promulgated pursuant thereto shall not be discharged until such time as the sewage system is conveyed to another party and the transfer is approved by the Public Service Commission, or the sewage treatment plant is approved for abandonment by the Public Service Commission and dismantled so as to remove any possibility it might accept wastewater or discharge to waters of the Commonwealth.



9. Upon First Commonwealth Bank's compliance with paragraphs 1, 4, 5 and 6 above, this action shall be dismissed, and no civil penalty assessed. If First Commonwealth Bank fails to complete the terms specified in this Agreed Order, as provided above, the Cabinet resumes its right to take all appropriate enforcement action, including prosecuting this action, and First Commonwealth Bank presumes its defenses thereto.

*Arthur L. Williams 1/30/89*

ARTHUR L. WILLIAMS  
COMMISSIONER  
DEPARTMENT FOR  
ENVIRONMENTAL PROTECTION

*KM H*

KATHRYN M. HARGRAVES  
COUNSEL FOR PLAINTIFF

*William S. Kendrick*

WILLIAM S. KENDRICK  
COUNSEL FOR FIRST COMMONWEALTH  
BANK

*Jack A. Wilson*

JACK A. WILSON  
DIRECTOR  
DIVISION OF WATER

*Keith Fairchild*

KEITH FAIRCHILD, PRESIDENT,  
APPALACHIAN WASTE CONTROL, INC.

*Frank Dickerson*

FRANK DICKERSON, COMMISSIONER  
DEPARTMENT OF LAW

*Jack L. Miller*

JACK L. MILLER  
HEARING OFFICER

ORDER

Upon recommendation of the Department of Law, Natural Resources and Environmental Protection Cabinet, this AGREED ORDER is hereby entered as a final Order of the Cabinet this the 21<sup>st</sup> day of February, 1989.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

*Carl H. Bradley*

CARL H. BRADLEY, SECRETARY

CERTIFICATION

I hereby certify that a true and accurate copy of the foregoing AGREED ORDER, was mailed, postage prepaid, to the following this the 22<sup>nd</sup> day of February, 1989:

Hon. William S. Kendrick  
111 East Court Street  
Box 700  
Prestonsburg, Kentucky 41653

Burl W. Spurlock  
First Commonwealth Bank  
3 North Lake Drive  
Prestonsburg, Kentucky 41653

Gerald Wuetcher  
Public Service Commission  
730 Schenkel Lane  
P. O. Box 615  
Frankfort, Kentucky 40602

Keith Fairchild, President  
Appalachian Waste Control, Inc.  
Paintsville, Kentucky 41240

and hand-delivered to:

Hon. Kathryn M. Hargraves  
Department of Law  
Capital Plaza Tower, Fifth Floor  
Frankfort, Kentucky 40601

  
RITA A. HARDIN  
DOCKET COORDINATOR

DISTRIBUTION: Division of Water  
Hon. Jack L. Miller  
Order File

*J.C. Hazard D.O.*

*EPA*

*DEF*

CARL H. BRADLEY  
SECRETARY



WALLACE G. WILKINSON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
18 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

FEB 13 1990

Mr. Gary Keith Fairchild  
Appalachian Waste Control, Incorporated  
HC 77, Box 110  
Hager Hill, Kentucky 41222

Re: NPDES No. KY0093823  
Johnson County, Kentucky

Dear Mr. Fairchild:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Richmond Hills Estate. This action constitutes a final permit issuance under 401 KAR 5:075 pursuant to KRS 224.034.

This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted by the Division of Water. 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.

If you wish to request an adjudicatory hearing, you must submit the request in writing (an original and two (2) copies) to the Department of Law within thirty (30) days from the date of this letter. For your record keeping purposes, it is recommended that this request be sent by certified mail. The hearing request must conform to the requirements of KRS 224.081(2).

If you have any questions regarding this permit issuance, please contact Judy Zeigler of the Inventory and Data Management Section, Permit Review Branch at (502) 564-3410.

Further information on procedures and legal matters pertaining to the adjudicatory hearing may be obtained by contacting Ms. Kathy Hargraves, Department of Law at (502) 564-5576.

Sincerely,

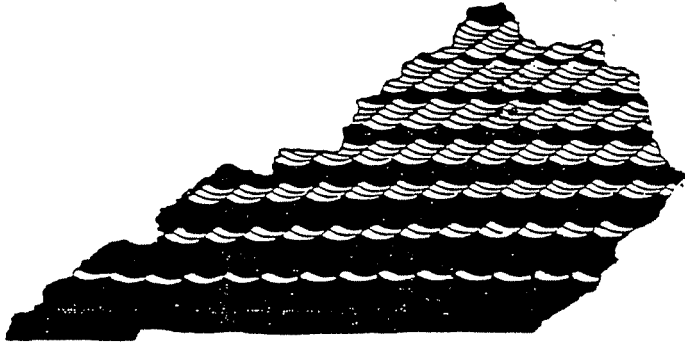
A handwritten signature in cursive script, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:BT:mm  
Enclosure

cc: Hazard Regional Office  
Gary Levy, Enforcement Branch, Division of Water

**KPDES**



**Kentucky Pollutant  
Discharge Elimination  
System**

**PERMIT**

Permit No.: KY0093823

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

Pursuant to Authority in KRS 224,

Appalachian Waste Control, Inc.  
HC 77, Box 110  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Richmond Hills Estate  
off Kentucky Highway 302  
approximately one (1) mile south of Van Lear, Kentucky  
Johnson County

to receiving waters named

Unnamed tributary to Johns Creek


in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

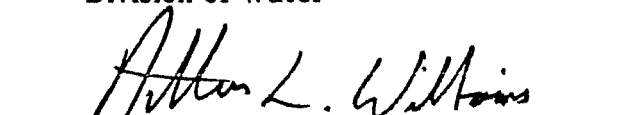
This permit shall become effective on **APR - 1 1990**

This permit and the authorization to discharge shall expire at midnight, **MAR 31 1995**

**FEB 13 1990**

Date Signed

  
\_\_\_\_\_  
Jack A. Wilson, Director  
Division of Water

  
\_\_\_\_\_  
Arthur L. Williams  
Commissioner

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

Division of Water, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during the previous 3 month(s) shall be summarized for each month (each quarter if monitoring frequency is quarterly) and must be reported on a Discharge Monitoring Report Form, postmarked no later than 28th day of the month following the completed reported period.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite #1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
18 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:085, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

PHILLIP J. SHEPHERD  
SECRETARY



BRERETON C. JONES  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK  
14 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

APR 11 1995

Mr. Gary K. Fairchild  
2656 Route 2039  
Hagerhill, Kentucky 41222

Re: NPDES No. KY0093823  
Johnson County, Kentucky

Dear Mr. Fairchild:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for Richmond Hills Estate. 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 copies of request for hearing should be submitted in writing to the Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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 Ms. Judy Zeigler, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Hon. Barbara Foster, Division of Hearings, at (502) 564-7312.

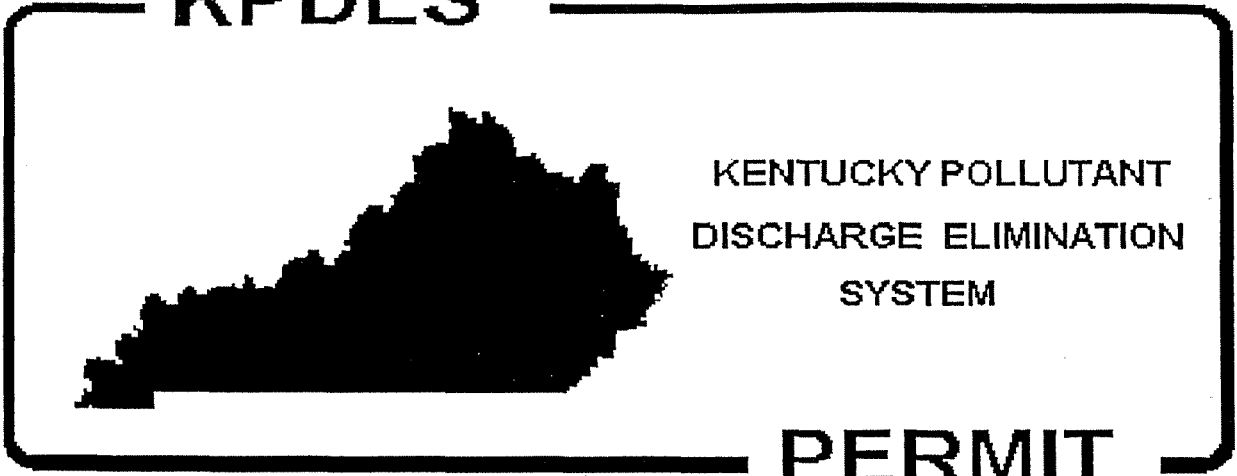
Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Jack A. Wilson".

Jack A. Wilson, Director  
Division of Water

JAW:BT  
Enclosure  
c: Hazard Regional Office

KPDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

PERMIT

PERMIT NO. KY0093823

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Gary K. Fairchild  
2656 Route 2039  
Hagerhill, Kentucky 41222

is authorized to discharge from a facility located at

Richmond Hills Estate  
Highway 1107, south of Van Lear, Johnson County, Kentucky

to receiving waters named

Unnamed tributary (mile 0.3) of Johns Creek (mile 2.15)

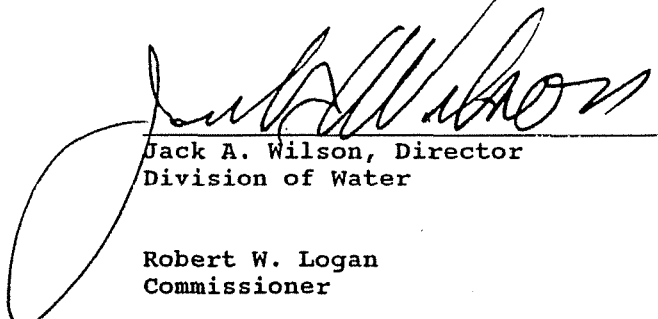
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. The permit consists of this cover sheet, and Part I 2 page(s), Part II 1 page(s) and Part III 1 page(s).

This permit shall become effective on **JUN - 1 1995**

This permit and the authorization to discharge shall expire at midnight **MAY 31 2000**

**APR 11 1995**

Date Signed



Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601



A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from outfall(s) serial number(s): 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
	Monthly Avg.	lbs/day Daily Max.	Other Units (Specify) Monthly Avg.	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.02 mgd)	N/A	N/A	Report	5/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5 day), Carbonaceous	5.00	10.0	30 mg/l	60 mg/l	1/Month	Composite Effluent
Total Suspended Solids	5.00	10.0	30 mg/l	60 mg/l	1/Month	Composite Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A	200	400	1/Month	Grab Effluent
Ammonia (as N)	0.67	1.33	4 mg/l*	8 mg/l*	1/Month	Composite Effluent
Dissolved Oxygen shall not be less than 7 mg/l	1.67	3.34	10 mg/l**	20 mg/l**	1/Month	Grab Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations on the effective date of this permit.
2. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

**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.

PART III

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results must be obtained for each month and reported on a preprinted Discharge Monitoring Report (DMR) Form which will be mailed to you each quarter for the upcoming quarter. The completed DMRs for each month must be sent to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
ATTN: Mr. Gene Blair

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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 thru 5:080 and KRS 224, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.



COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY ROAD  
FRANKFORT, KENTUCKY 40601

**STATEMENT OF BASIS**

KPDES No.: KY0093823 Permit Writer: Paul L. Beckley Date: December 6, 1994  
Facility Name: Richmond Hills Estate  
Location: Highway 1107, south of  
Van Lear, Johnson County, Kentucky  
Receiving Stream: Unnamed tributary (mile 0.3) of Johns Creek (mile  
2.15)  
Stream Segment Use Classification: Warmwater Aquatic Life  
Stream Low Flow Condition: 0.00 cfs  
Permit Duration: Five (5) years  
Justification of Permit Limits:

Biochemical Oxygen Demand (5 day), Total Suspended Solids, Fecal Coliform and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR  
5:045, pursuant to KRS 224.70-100, 224.70-110.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR  
5:031, pursuant to KRS 224.70-100, 224.70-110.

The conditions of 401 KAR 5:029, Section 2(1) and (3) have been satisfied by this permit  
action. A review under Section 2(2) and (4) is not applicable.



JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

February 27, 2002

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Richmond Hill Estates  
KPDES Permit No.: KY0093823  
Johnson County, Kentucky

Dear Mr. Bowling:

The Division of Water received the Change in Ownership Certification for the above-referenced facility. The Kentucky Pollutant Discharge Elimination System (KPDES) permit has been revised to reflect this change. Enclosed is a copy of the KPDES permit with the revised page.

If you have any questions, please contact Pete Beckley, of my staff, at (502) 564-2225, extension 469.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Scott".

**R. Bruce Scott, P.E.**  
Environmental Engineer Branch Manager  
KPDES Branch  
Division of Water

RBS:PB:pg  
Enclosure

c: Hazard Regional Office  
Division of Water Files



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JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**DEC 07 2000**

Mr. Keith Fairchild  
Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

Re: Richmond Hills Estates  
KPDES No.: KY0093823  
Johnson County, Kentucky

Dear Mr. Fairchild:

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.

Your facility is being issued a permit that is shorter than the normal five-year term in order to synchronize permit issuance by watershed. The permit fee that is assessed for this short-term permit is prorated based on the permit duration. Implementation of watershed permitting will begin in the year 2001 and your targeted permit issuance is based upon your location in the watershed basin. Since your total fee has already been paid, a \$1000 refund will be sent to you in 6-8 weeks.

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 Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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.



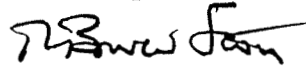
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Mr. Keith Fairchild  
Richmond Hills Estates/KY0093823  
Page Two

If you have any questions regarding the KPDES decision, please contact Courtney Seitz, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

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,



Jack A. Wilson, Director  
Division of Water

JAW:NG:ng  
Enclosure

c: Hazard Regional Office  
Division of Water Files



JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**STATEMENT OF BASIS**

**KPDES No.:** KY0093823      **Permit Writer:** Paul L. Beckley      **Date:** March 27, 2000

**Facility Name:** Richard Hills Estates

**Facility Location:** Johns Creek Road  
Van Lear, Johnson County, Kentucky

**Permitting Action:** This is a re-issuance of a permit for a subdivision.

**Permit Duration:** Expires February 28, 2002. This expiration date will place the facility in the correct 5-year cycle as per the Kentucky Watershed Management Framework. In this instance, the permit is scheduled for re-issuance in March 2002 for the Big and Little Sandy/Tygarts Basin Management Unit.

**Receiving Stream:** Unnamed tributary (mile 0.3) of Johns Creek (mile 2.15)

**Stream Segment Use Classification:** Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation

**Stream Low Flow Condition:** 0.00 cfs

**Justification of Permit Conditions:**

The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.

Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform, and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

**Antidegradation:**

The conditions of 401 KAR 5:029, Section 1(1) have been satisfied by this permit action. A review under Section 1(2), (3), and (4) is not applicable.

pg



# KPDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

# PERMIT

PERMIT NO.: KY0093823

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

Pursuant to Authority in KRS 224,

Mr. Keith Fairchild  
Appalachian Waste Control, Incorporated  
2656 Route 2039  
Hager Hill, Kentucky 41222

is authorized to discharge from a facility located at

Richmond Hills Estates  
Johns Creek Road  
Van Lear, Johnson County, Kentucky

to receiving waters named

Unnamed tributary (mile 0.3) of Johns Creek (mile 2.15)

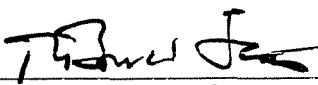
in accordance with effluent limitations, monitoring requirements, and other conditions set forth in PARTS I, II, and III hereof. The permit consists of this cover sheet, and PART I 2 pages, PART II 1 page, and PART III 1 page.

This permit shall become effective on **FEB 0 1 2001**

This permit and the authorization to discharge shall expire at midnight, February 28, 2002.

**DEC 0 7 2000**

Date Signed

  
\_\_\_\_\_  
Jack A. Wilson, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

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A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from Outfall serial number: 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS		Sampling Location		
	Monthly Avg.	lbs/day Daily Max.	Other Units (Specify) Monthly Avg.	Report Daily Max.		Measurement Frequency	Sample Type
Flow, Design (0.02 mgd)	N/A	N/A	Report	Report	5/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5-day), Carbonaceous	5.00	10.0	30 mg/l	60 mg/l	1/Month	Composite	Effluent
Total Suspended Solids	5.00	10.0	30 mg/l	60 mg/l	1/Month	Composite	Effluent
Fecal Coliform Bacteria N/100	N/A	N/A	200	400	1/Month	Grab	Effluent
Ammonia (as N)	0.67 1.67	1.33 3.34	4 mg/l* 10 mg/l**	8 mg/l* 20 mg/l**	1/Month	Composite	Effluent
Dissolved Oxygen shall not be less than 7 mg/l					1/Month	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per Month by Grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. The permittee will eliminate the discharge and will connect to a comprehensive sewer system provided such system can adequately treat the wastes.

PART II  
Page II-1  
Permit No.: KY0093823

**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.

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results must be obtained for each month and reported on a preprinted Discharge Monitoring Report (DMR) form that will be mailed to you each quarter for the upcoming quarter. The completed DMRs for each month must be sent to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28<sup>th</sup> day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
Attn: Supervisor

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water  
Inventory & Data Management  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

2002 FEB 11 11 P 12:31  
RECEIVED BY WWS-BOALICE

Gary Keith Fairchild  
2656 KY RT 2039  
Hager Hill, KY 41222

February 13, 2002

Division of Water  
Permits Branch  
Frankfort Office Park,  
14 Reilly Road  
Frankfort, KY 40601

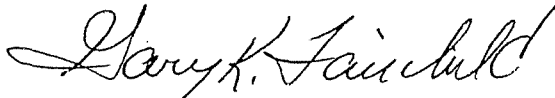
Dear Sir:

This letter is to notify the KY Division of Water that as of February 1, 2002, that all Waste Water Systems owned by Appalachian Waste Control have been given away. A list of these systems is included with this letter.

Mr. Lance Bowling, **Class 1 Certification Number 01485** has accepted the systems. He is currently certified by KY Division of Water in Waste Water Operation. He began operation and maintenance of the systems as of February 1, 2002.

Both parties are proceeding with the paperwork needed to complete the transfers.

Sincerely,



Gary Keith Fairchild

# CHANGE IN OWNERSHIP CERTIFICATION

76

Facility Name <i>Richmond Hill Estates</i>	NPDES No. <i>KY0093823</i>
Previous Name (if changed)	County <i>Johnson</i>

*2002 FEB 26 12-15*

I hereby certify that I will assume ownership and all responsibility for meeting the permit conditions of the Commonwealth of Kentucky relating to water quality at the permitted facility listed above on the effective date indicated.

Name of New Owner or Authorized Representative <i>Lance Bowling</i>	<i>RECEIVED</i>
Company Name <i>East Kentucky Waste Control</i>	<i>TRANSFERENCE</i>
Address of New Owner (Street, City, State, Zip Code) <i>153 George Br. East Point, Ky. 41216</i>	
Telephone No. of Owner/Authorized Representative <i>(606) 889-0414</i>	
Location Address of Facility <i>Richmond Hill Estates, Johns Creek, Ky</i>	
Effective Date of Transfer <i>Feb. 1, 2002</i>	
Previous Owner Name <i>Appalachian Waste Control</i>	

Indicate the address where the Discharge Monitoring Report (DMR) forms should be sent. (Complete only if different from owner name and address listed above.) These DMR forms are preprinted with permit limitations and mailed out each quarter (semi-annually for individual residences).

Alternate DMR Mailing Name	
Alternate DMR Mailing Address	

Signature of New Owner or Authorized Representative <i>Lance Bowling</i>	Date <i>2-23-02</i>
---	------------------------

Acknowledged before me this 25 day of February, 2002

Notary Public Linda Bowling Commission Expires: Dec 7 2002

Notary Seal

Questions on completing this form? Contact the KPDES Branch at (502) 564-3410.

Complete and return this form to:  
 Division of Water, KPDES Branch  
 Frankfort Office Park  
 14 Reilly Road  
 Frankfort, KY 40601



JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**JUN 21 2002**

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Richmond Hills Estates  
KPDES No.: KY0093823  
Johnson County, Kentucky

Dear Mr. Bowling:

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.

Your facility is being issued a permit that is shorter than the normal five-year term in order to synchronize permit issuance by watershed. The permit fee that is assessed for this short-term permit is prorated based on the permit duration. Implementation of watershed permitting will begin in the year 2001 and your targeted permit issuance is based upon your location in the watershed basin.

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 Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental 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.



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An Equal Opportunity Employer M/F/D

Mr. Lance Bowling  
Richmond Hills Estates/KY0093823  
Page Two

If you have any questions regarding the KPDES decision, please contact Courtney Seitz, Inventory and Data Management Section, KPDES Branch, at (502) 564-2225, extension 465.

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,

A handwritten signature in black ink, appearing to read "Jeffrey W. Pratt". The signature is stylized and written in a cursive-like font.

Jeffrey W. Pratt, Director  
Division of Water

JWP:NG:ng  
Enclosure

c: Hazard Regional Office  
Division of Water Files



COMMONWEALTH OF KENTUCKY  
**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**STATEMENT OF BASIS**

**KPDES No.:** KY0093823    **Permit Writer:** Paul L. Beckley    **Date:** May 9, 2002

**Facility Name:** Richmond Hills Estates

**Facility Location:** Johns Creek Road  
Van Lear, Johnson County, Kentucky

**Permitting Action:** This is a re-issuance of a permit for a subdivision.

**Permit Duration:** Expires February 28, 2006. This expiration date will place the facility in the correct 5-year cycle as per the Kentucky Watershed Management Framework. In this instance, the permit is scheduled for re-issuance in March 2006 for the Big and Little Sandy/Tygarts Basin Management Unit.

**Receiving Stream:** Unnamed tributary (mile 0.3) of Johns Creek (mile 2.15)

**Stream Segment Use Classification:** Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation

**Stream Low Flow Condition:** 0.00 cfs

**Justification of Permit Conditions:**

The following regulations are pursuant to KRS 224.70-100 and KRS 224.70-110.

Biochemical Oxygen Demand (5-day), Total Suspended Solids, Fecal Coliform, and pH  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:045.

Ammonia Nitrogen and Dissolved Oxygen  
The effluent limitations for the above permit parameters are consistent with 401 KAR 5:031.

**Antidegradation:**

The conditions of 401 KAR 5:029, Section 1(1) have been satisfied by this permit action. A review under Section 1(2), (3), and (4) is not applicable.



KPDLS



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

PERMIT

PERMIT NO.: KY0093823

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

is authorized to discharge from a facility located at

Richmond Hills Estates  
Johns Creek Road  
Van Lear, Johnson County, Kentucky

to receiving waters named

Unnamed tributary (mile 0.3) of Johns Creek (mile 2.15)

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in PARTS I, II, and III hereof. The permit consists of this cover sheet, and PART I 2 pages, PART II 1 page, and PART III 1 page.

This permit shall become effective on **AUG 1 2002**

This permit and the authorization to discharge shall expire at midnight, February 28, 2006.

JUN 21 2002

Date Signed

Jeffrey W. Pratt, Director  
Division of Water

Robert W. Logan  
Commissioner

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601

Printed on Recycled Paper

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from Outfall serial number: 001, Sanitary Wastewater.

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS				
	Monthly Avg.	Daily Max.	lbs/day	Other Units (Specify) Monthly Avg.	Report	Measurement Frequency	Sample Type	Sampling Location
Flow, Design (0.02 mgd)	N/A	N/A	N/A	Report	Report	5/Week	Instantaneous	Influent or Effluent
Biochemical Oxygen Demand (5-day), Carbonaceous	5.00	10.0		30 mg/l	60 mg/l	1/Month	Composite	Effluent
Total Suspended Solids	5.00	10.0		30 mg/l	60 mg/l	1/Month	Composite	Effluent
Fecal Coliform Bacteria, N/100	N/A	N/A		200	400	1/Month	Grab	Effluent
Ammonia (as N)	0.67	1.33		4 mg/l*	8 mg/l*	1/Month	Composite	Effluent
	1.67	3.34		10 mg/l**	20 mg/l**			
Dissolved Oxygen shall not be less than 7 mg/l						1/Month	Grab	Effluent

The pH of the effluent shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per Month by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The effluent shall not cause a visible sheen on the receiving water.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: nearest accessible point after final treatment, but prior to actual discharge or mixing with receiving waters.

\* Effective May 1 - October 31  
 \*\* Effective November 1 - April 30

B. Schedule of Compliance

1. The permittee shall achieve compliance with all requirements on the effective date of this permit.
2. 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.

**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.

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results must be obtained for each month and reported on a preprinted Discharge Monitoring Report (DMR) form that will be mailed to you each quarter for the upcoming quarter. The completed DMRs for each month must be sent to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28<sup>th</sup> day of the month following the completed quarter.

Division of Water  
Hazard Regional Office  
233 Birch Street, Suite 1  
Hazard, Kentucky 41701  
Attn: Supervisor

Kentucky Natural Resources and  
Environmental Protection Cabinet  
Dept. for Environmental Protection  
Division of Water/KPDES Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601

B. Reopener Clause

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, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. 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.

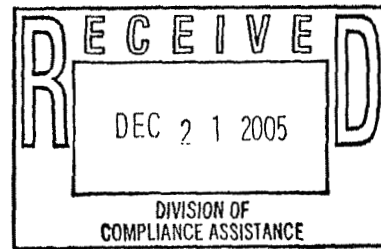


To. division of compliance assistance

I, Larry Stambaugh, a certified class III waste water operator will be taking over the operation and maintenance of 5 residential package plants for East Kentucky Waste Control. Lance Bowling is and will remain to be the owner of the company and plants, but lost his license and is no longer certified to run the plants. My certification number if needed is 13665. Lance Bowling will also need to be taken off as the operator.

The 5 plants are in Johnson county. The names and certification numbers are as followed:  
Burkshire Estates Ky0102687, Richmond hills Ky0093823, Neil Price subdivision Ky0097225,  
Paradise Village Ky0076686, Preston Estates Ky0080047.

Larry Stambaugh



COUNTY: JOHNSON  
FACILITY: PARADISE, PRESTON, NEAL PRICE, BURKESHIRE, RICHMOND HILLS  
I.D. # 2396, 2401, 2392, 2409  
SECTION: KPDES  
SENT BY CSA BRANCH DENE

AI 33350  
LARRY STAMBAUGH

AI 27918  
JEFFREY LANCE BOWLING

February 26, 2006

Ms. Vicky Prather  
Natural Resources and Environmental Protection  
Division of Water- K.P.D.E.S. Branch  
14 Reilly Road, Frankfort Office Park  
Frankfort, KY 40601

Dear Ms. Prather:

Effective March 1, 2006, please send all K.P.D.E.S. Discharge Monitoring Reports for the following facilities:

Paradise Village Subdivision,	Johnson County	<u>KY0076686</u>
Bush Gardens,	Johnson County	<u>KY0103853</u>
Burkshire Development,	Johnson County	<u>KY0102687</u>
Neal Price Subdivision,	Johnson County	<u>KY0097225</u>

to the following address:

McCoy & McCoy Laboratories  
Attn: D.M.R. Coordinator  
P.O. Box 907, 825 Industrial Road  
Madisonville, KY 42431

Sincerely,

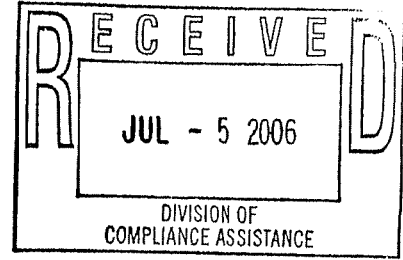
FACILITY: \_\_\_\_\_

CONTACT: Larry Stambay

TITLE: operator

INPUT INTO PCS

Larry M Stambaugh  
10018 - 016  
Spartanville, KY 40376  
7/3/06 2:01 PM



AI # 33350

June 30, 2006

Wastewater Certification Section  
14 Reilly Road  
Frankfort, Ky 40601

To Whom It May Concern:

This letter is to notify you that I Larry M Stambaugh certification # 13665, agency interest # 33350 will no longer be the operator for the following sewer package treatment plants effective June 30, 2006.

Plant Name	Permit Number
Richmond Hills Estates	KY0093823
Preston Estates Subdivision	KY0080047
Burkeshire Development Subdivision	KY0102687
Neal Price Subdivision	KY0097225
Paradise Valley Subdivision	KY0076686

Sincerely,

Larry M Stambaugh

A handwritten signature in cursive script that reads "Larry M Stambaugh".



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

LAJUANA S. WILCHER  
SECRETARY

November 9, 2006

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: KPDES Permit Fee Due  
Richmond Hills Estates  
KPDES No.: KY0093823  
Johnson County, Kentucky

Dear Mr. Bowling:

The Kentucky Pollutant Discharge Elimination System (KPDES) permit for the above-referenced facility has been finalized and is ready for issuance in accordance with 401.KAR 5:075, and pursuant to KRS 224.16-050.

**The KPDES permit fee due is \$1200.00.** Please make your check or money order payable to the Kentucky State Treasurer and mail it to the Division of Water, KPDES Branch, Inventory and Data Management Section, 14 Reilly Road, Frankfort, Kentucky 40601, within thirty (30) days of the date of this letter. For your record keeping purposes, it is recommended that the fee be sent by certified mail.

If you have any questions concerning this matter, please contact me at (502) 564-2225, extension 402.

Sincerely,

**Nancy Green, Program Coordinator**  
Inventory and Data Management Section  
KPDES Branch  
Division of Water

NG:ng  
c: Division of Water Files



ERNE 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

December 15, 2006

Mr. Lance Bowling  
East Kentucky Waste Control  
153 George Branch  
East Point, Kentucky 41216

Re: Richmond Hill Estates Wastewater Treatment  
Plant  
KPDES No.: KY0093823  
Johnson County, Kentucky

Dear Mr. Bowling:

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 Sara Beard, Industrial Permit Section, KPDES Branch, at (502) 564-2225, extension 590.

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,

E-Signed by Jory Becker  
VERIFY authenticity with ApproveIt

David W. Morgan, Director  
Division of Water

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

## **APPENDIX F**

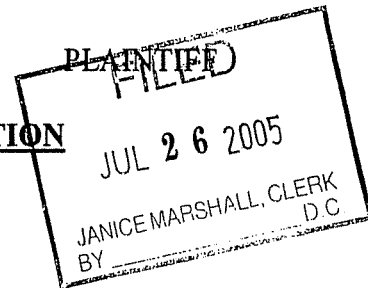
COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-cv-1007

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

v.

MOTION FOR TEMPORARY INJUNCTION

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)



DEFENDANT

\* \* \* \* \*

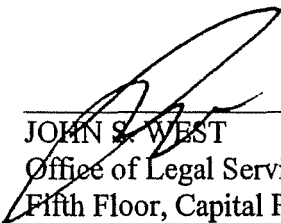
Comes the Plaintiff, Environmental and Public Protection Cabinet, by counsel and moves this Court pursuant to Civil Rule 65.04 to grant it a Temporary Injunction enjoining the Defendant, Jeffery Lance Bowling and any and all persons in active concert or participating with him, or any of them from:

1. Continuing to discharge or allow to be discharged from the above captioned package plants in Johnson County, Kentucky sewage waste and/or constituents or pollutants that is not treated in accordance with proper operation and maintenance of the facility and in violation of the Clean Water Act and 401 KAR Chapter 5..

2. Continuing to discharge or allow to be discharged from the above captioned package plants in Johnson County, Kentucky, sewage waste and/or constituents or pollutants in excess of the limits set out in KPDES permits.
3. Allowing or depleting or allowing to be depleted by negligence and/or inaction above captioned package plants in Johnson County, Kentucky, including the mechanical equipment located thereon, the buildings and structures located thereon and appurtenant thereto, and/or the receiving ponds, piping or structures related thereto.

In support of this motion, Plaintiff incorporates as fully as copied herein the allegations of its complaint filed herein, its Motion for Restraining Order and the affidavit filed in support thereof.

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET



---

JOHN S. WEST  
Office of Legal Services  
Fifth Floor, Capital Plaza Tower  
Frankfort, KY 40601  
(502) 564-5576  
FAX (502) 564-6131



COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007

FILED  
JUL 26 2005  
JANICE MARSHALL, CLERK  
D.C.  
BY  
PLAINTIFF

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

v.

VERIFIED COMPLAINT

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

RECEIVED  
JUL 26 2005  
JANICE MARSHALL, CLERK  
D.C.  
BY

DEFENDANT

SERVE: Mr. Jeffery Lance Bowling  
d/b/a East Kentucky Waste Control  
153 George Branch  
East Point, KY 41216

\* \* \* \* \*

Comes the Plaintiff, Environmental and Public Protection Cabinet (hereinafter "The Cabinet"), by counsel, pursuant to Kentucky Revised Statue Chapter 224, Civil Rule 65 and all other applicable statutory and legal authority, and for its Complaint herein states as follows:

1. The Cabinet is the administrative agency duly charged with the statutory duty to enforce all rules, regulations and orders promulgated pursuant to environmental protection including KRS Chapter 224 and the regulations promulgated thereto, which include those relating to wastewater treatment and permitting, and the prevention of degradation of the waters of the Commonwealth.

2. Jeffery Lance Bowling d/b/a East Kentucky Waste Control (hereinafter “the Defendant”) is the holder of several Kentucky Pollutant Discharge Elimination System (hereinafter “KPDES”) permits for the following facilities:

- a.) KPDES No. KY0076686, is assigned to the Paradise Valley Subdivision wastewater plant and will expire on December 31, 2005. The application of renewal was due by July 1, 2005. The plant is located off of Route 1428, Hager Hill, Johnson County, Kentucky. The KPDES permit is attached hereto and incorporated by reference as exhibit 1;
- b.) KPDES No. KY0080047, assigned to the Preston Estates Subdivision wastewater plant will expire on December 31, 2005. The application of renewal was due by July 1, 2005. The plant is located on Highway 40, east of Paintsville, Johnson County, Kentucky. The KPDES permit is attached hereto and incorporated by reference as exhibit 2;
- c.) KPDES No. KY0093823, assigned to Richmond Hills Estates wastewater plant that will expire February 28, 2006. The plant is located on Johns Creek Road, Van Lear, Johnson County, Kentucky. The KPDES permit is attached hereto and incorporated by reference as exhibit 3;
- d.) KPDES No. KY0097225, assigned to Neal Price Subdivision wastewater plant that will expire on December 31, 2005. The application of renewal was due by July 1, 2005. The plant is located on Price Drive off Kentucky Highway 1107, Thelma, Johnson County, Kentucky. The KPDES permit is attached hereto and incorporated by reference as exhibit 4; and

e.) KPDES No. KY0102687, assigned to Burkeshire Development wastewater plant that will expire February 28, 2006. The plant is located on State Road 2039, Rockhouse Creek, Johnson County, Kentucky. The KPDES permit is attached hereto and incorporated by reference as exhibit 5.

3. The Defendant has accepted the transfer of the facilities and responsibility for the operation and maintenance thereof and having filed with the Division of Water (hereinafter "DOW") a Change in Ownership Certification for the respective facilities and the KPDES permits have been revised to reflect the change in ownership. However, no application for renewal of the KPDES permits has been filed with DOW and several of the KPDES permits will expire as a result of the Defendant's failure to file an application of renewal. The Defendant no longer has an operator's license.

4. Several Notices of Violations (hereinafter "NOV") were issued to the Defendant for the above named facilities. Those notices are as follows:

a.) KPDES No. KY0076686, the Paradise Valley Subdivision wastewater plant was cited on April 14, 2005, for the failure to operate and maintain the facility in violation of 401 KAR 5:065 Section 1 (5). The plant was near septic conditions at the time of the inspection. The plant was again cited on May 18, 2004, for the failure to operate and maintain the facility in violation of 401 KAR 5:065 Section 1 (5). Solids were observed washing out through the clarifier into the chlorine unit that was not providing chlorination. The solids are being released into an unnamed tributary of Burnt Cabin Branch stream, a Warmwater Aquatic Habitat. A fecal sample was collected and taken to McCoy and McCoy Laboratories, Inc. to determine the fecal

content. Copies of the Notices of Violation and laboratory results are attached hereto and incorporated by reference as exhibit 6.

- b.) KPDES No. KY0080047, the Preston Estates Subdivision wastewater plant was cited on February 25, 2004, for the failure to notify DOW of a bypass in violation of 401 KAR 5:015 Section 2. The plant was also cited for the failure to submit discharge monitoring reports in violation of 401 KAR 5:065 Section 1 (12) (d) and the failure to operate and maintain the facility in violation of 401 KAR 5:065 Section 1 (5). A blanket of sludge was found on the surface of the clarifier. The plant appeared full of solids that were going over the weir into the Buffalo Creek, a Warmwater Aquatic Habitat. The plant was also cited for failure to maintain a disinfection process as no chlorination was being provided in violation of 401 KAR 5:005 Section 11 (1). The plant was again cited on April 21, 2005, for the failure to submit discharge monitoring reports in violation of 401 KAR 5:065 Section 1 (12) (d) and the failure to operate and maintain the facility in violation of 401 KAR 5:065 Section 1 (5). Copies of the Notices of Violation are attached hereto and incorporated by reference as exhibit 7
- c.) KPDES No. KY0093823, the Richmond Hills Estates wastewater plant has not been inspected as the Cabinet Inspectors have not been able to gain entry.
- d.) KPDES No. KY0097225, the Neal Price Subdivision wastewater plant was cited on April 14, 2005, for the failure to operate and maintain the facility in violation of 401 KAR 5:065 Section 1 (5). The plant was found to be marginal and the discharge monitoring reports had not been submitted since the third quarter of 2004. A copy of the Notice of Violation is attached hereto and incorporated by reference as exhibit 8.

e.) KPDES No. KY0102687, the Burkeshire Development wastewater plant was cited on September 8, 2004, for the failure to operate and maintain the facility in violation of 401 KAR 5:065 Section 1 (5). The plant was found to be out of operation, with wastewater being allowed to flow through the plant untreated. The plant was also cited for not treating the effluent with chlorine in violation of 401 KAR 5:005 Section 11 (1). Additionally raw sewage was observed being discharged by the plant degrading the Left Fork of the Rockhouse Creek, in violation of 401 KAR 5:031 Section 2. On May 2, 2005, the plant was cited for the failure to submit monitoring reports since the third quarter of 2004 in violation of 401 KAR 5:065 Section 1 (12) (d). Copies of the Notices of Violation are attached hereto and incorporated by reference as exhibit 9.

5. The facilities continue to discharge untreated sewage into the waters of the Commonwealth or are improperly being operated and maintained. The facilities present a hazard to the health of the residents of the subdivisions, produce noxious odors, contain bacteria and other microorganisms including fecal coliform which present a danger to the health of those residents and to which they are in danger of exposure either directly or indirectly.

6. The Defendant has taken no action to resolve the conditions of which the Cabinet complains and which are degrading the waters of the Commonwealth. This condition continues and presents a clear danger to the health or welfare of the people of the state and results in or is likely to result in damage to the state's natural resources.

7. The Cabinet is responsible for protecting the waters of the Commonwealth from degradation by KRS 224.70-110 which states:

No person shall, directly or indirectly, throw, drain, run or otherwise discharge into any waters of the Commonwealth, or cause, permit or suffer to be thrown, drained, run or otherwise discharged into such waters any pollutant, or any other 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 provisions of this chapter.

The waters of the Commonwealth are suffering injury from these continuous unpermitted and illegal discharges of pollutants that cannot be compensated by a monetary award.

8. Defendant's unwillingness to address the serious concerns raised by this matter that may necessitate the appointment of a receiver herein.

9. Issuance of a Temporary Injunction in this matter will maintain the status quo prior to abandonment of the facilities by protecting the residents of Johnson County from the untreated and illegal discharges from the facility.

10. Issuance of temporary and permanent injunctions in this matter will protect human health and the environment by enjoining the discharges from this facility which are seriously damaging natural resources and which present a danger to human health and the environment.

**WHEREFORE**, the Cabinet demands the following relief:

1. That Defendant be immediately enjoined to cease unpermitted discharges from the facilities.

2. That Defendant be temporarily and permanently enjoined to cease unpermitted discharges.

3. That Defendant be enjoined to execute such documents as may become necessary in the event that a receiver must be appointed in this matter.

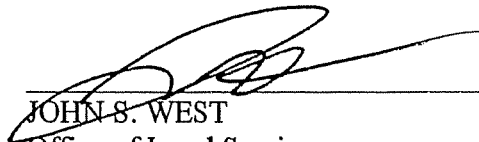
4. That the Defendant be required to retain a Kentucky licensed wastewater operator to operate the plants at issue or in the alternative a receiver be appointed to take possession of the facilities in question, receive the assets attendant thereunto including the monthly payments of the residents of the subdivisions and any and all other duties attendant and necessary to said appointment.

5. That the Defendant be assessed penalties of twenty-five thousand dollars (\$25,000) per day per violation.

6. For its costs herein expended and for any and all other relief to which the Cabinet may appear entitled.

Respectfully submitted,

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET



---

JOHN S. WEST  
Office of Legal Services  
Fifth Floor, Capital Plaza Tower  
Frankfort, KY 40601  
(502) 564-5576  
FAX (502) 564-6131

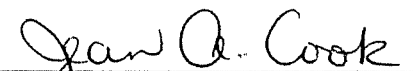
VERIFICATION

I, Gene Harrison, Environmental Inspector, Environmental and Public Protection Cabinet, hereby swear and affirm that the allegations contained in this Verified Complaint are true and accurate to the best of my knowledge.

  
\_\_\_\_\_  
GENE HARRISON

COMMONWEALTH OF KENTUCKY  
COUNTY OF Franklin

Subscribed and sworn to before me by the Affiant, Gene Harrison, on this the 25<sup>th</sup> day of July, 2005 who says that he has read the foregoing complaint and that the information contained therein is true to the test of his information and belief.

  
\_\_\_\_\_  
Notary Public

My commission expires: 1/10/2006



COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION I

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

PLAINTIFF

VS.

**AFFIDAVIT IN SUPPORT OF MOTION**  
**FOR SHOW CAUSE ORDER**

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

DEFENDANT

\*\*\*\*\*


Affiant, John S. West, after having been duly sworn, states and avows that the following is based on person knowledge and is true and correct:

1. That I am employed by the Environmental and Public Protection Cabinet, as an attorney in the Office of Legal Services.
2. That a Temporary Injunction was signed and entered by this court on July 26, 2005.
3. That pursuant to that Temporary Injunction Jeffery Lance Bowling was to stop discharging or allowing the discharge from the above captioned package plants in Johnson County, Kentucky sewage waste and/or constituents or pollutants that is not

treated in accordance with proper operation and maintenance of the facility and in violation of the Clean Water Act and 401 KAR Chapter 5. To stop exceeding the limits set out in KPDES permits. And to stop allowing or depleting or allowing to be depleted by negligence and/or inaction above captioned package plants in Johnson County, Kentucky, including the mechanical equipment located thereon, the buildings and structures located thereon and appurtenant thereto, and/or the receiving ponds, piping or structures.

4. That on or about August 11<sup>th</sup> and 12<sup>th</sup>, 2005, a representative of the Cabinet inspected the sites and found ongoing violations. The Affiant has unsuccessfully attempted to contact the Defendant by telephone leaving messages at his home (606 889-0414; work (606) 789-6800; and mobile phone (606) 454-6800 in addition to having the Defendant served. Shortly after the Defendant was served with the Temporary Injunction he contacted the Affiant and acknowledged receiving it.

Further, Affiant sayeth naught this the 24 day of August, 2005.

  
\_\_\_\_\_  
JOHN S. WEST  
Office of Legal Services  
Environmental and Public Protection Cabinet

**NOTARY**

Subscribed and sworn to before me by John S. West this the 24<sup>th</sup> day of August, 2005.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: August 2008

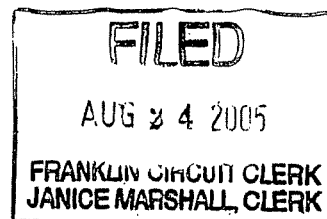
COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION NO. I

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET

PLAINTIFF

VS. NOTICE - MOTION TO SET FOR HEARING

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)



DEFENDANT

\*\*\*\*\*

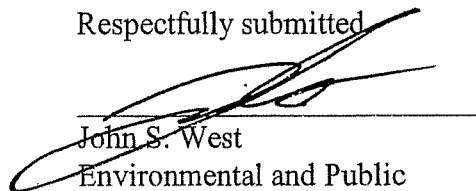
NOTICE

Please take notice that the following motion will be brought on for hearing on Wednesday, August 31, 2005 at the Franklin County Courthouse, 218 St. Clair Street in Frankfort, Kentucky at 9:00 a.m. or as soon thereafter as counsel may be heard.

MOTION

Comes the Plaintiff, Environmental and Public Protection Cabinet, by counsel, pursuant to KRS 224.99-020, and moves this Court to set this action for a hearing upon allegations set forth in the complaint.

Respectfully submitted



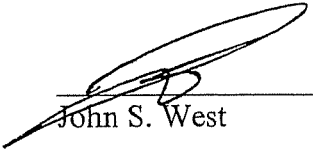
John S. West  
Environmental and Public  
Protection Cabinet

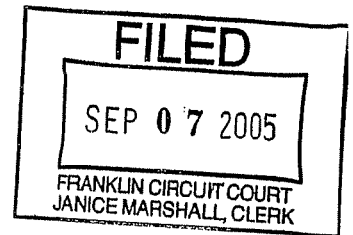
Office of Legal Services  
Fifth Floor, Capital Plaza Tower  
Frankfort, KY 40601  
(502) 564-3410, Ext. 395  
(502) 564-6131 (FAX)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 24 day of April, 2005, a true and accurate copy of the foregoing NOTICE - MOTION TO SET FOR HEARING, was mailed, certified mail postage pre-paid, to the following:

Mr. Jeffery Lance Bowling  
d/b/a East Kentucky Waste Control  
153 George Branch  
East Point, KY 41216-8707

  
\_\_\_\_\_  
John S. West



COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION I

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

PLAINTIFF

VS.                   **AMENDED MOTION FOR A SHOW CAUSE ORDER  
AGAINST JEFFREY LANCE BOWLING**

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

DEFENDANT

\*\*\*\*\*

Comes the Plaintiff, Environmental and Public Protection Cabinet, through counsel, and moves this Court for an Order requiring that Jeffery Lance Bowling, show cause why he should not be held in contempt for failure to comply with the Order of this Court entered July 26, 2005 requiring Jeffery Lance Bowling to stop discharging or allowing the discharge from the above captioned package plants in Johnson County, Kentucky sewage waste and/or constituents or pollutants that is not treated in accordance with proper operation and maintenance of the facility and in violation of the Clean Water


Act and 401 KAR Chapter 5. To stop exceeding the limits set out in KPDES permits. And to stop allowing or depleting or allowing to be depleted by negligence and/or inaction above captioned package plants in Johnson County, Kentucky, including the mechanical equipment located thereon, the buildings and structures located thereon and appurtenant thereto, and/or the receiving ponds, piping or structures

In support of its Motion the Cabinet submits the enclosed proof of service and inspection reports.

**NOTICE**

Defendant, Jeffery Lance Bowling will hereby take notice that the foregoing Motion will come on for hearing on Wednesday, September 14, 2005 at the Franklin County Courthouse, 218 St. Clair Street in Frankfort, Kentucky at 9:00 a.m. or as soon thereafter as counsel may be heard.

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET

  
\_\_\_\_\_  
JOHN S. WEST  
Office of Legal Services  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601  
(502) 564-5576 Telephone  
(502) 564-6131 Facsimile

COUNSEL FOR PLAINTIFF

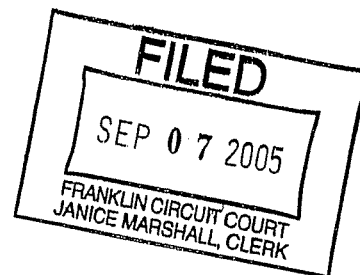
**CERTIFICATE OF SERVICE**

I hereby certify that on the 7 day of Sept, 2005, a true and accurate copy of the foregoing MOTION FOR A SHOW CAUSE ORDER AGAINST JEFFERY LANCE BOWLING was mailed, postage prepaid and fax'd to the following:

Mr. Jeffery Lance Bowling  
d/b/a East Kentucky Waste Control  
153 George Branch  
East Point, KY 41216-8707

  
\_\_\_\_\_  
John S. West

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION NO. I



ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET

PLAINTIFF

VS.           **AMENDED NOTICE - MOTION TO SET FOR HEARING**

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

DEFENDANT

\*\*\*\*\*

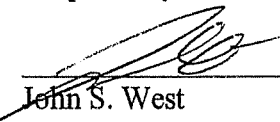
**NOTICE**

Please take notice that the following motion will be brought on for hearing on Wednesday, September 14, 2005 at the Franklin County Courthouse, 218 St. Clair Street in Frankfort, Kentucky at 9:00 a.m. or as soon thereafter as counsel may be heard.

**MOTION**

Comes the Plaintiff, Environmental and Public Protection Cabinet, by counsel, pursuant to KRS 224.99-020, and moves this Court to set this action for a hearing upon allegations set forth in the complaint.

Respectfully submitted

  
\_\_\_\_\_  
John S. West  
Environmental and Public  
Protection Cabinet



Office of Legal Services  
Fifth Floor, Capital Plaza Tower  
Frankfort, KY 40601  
(502) 564-3410, Ext. 395  
(502) 564-6131 (FAX)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7 day of Sept, 2005, a true and accurate copy of the foregoing NOTICE - MOTION TO SET FOR HEARING, was mailed, certified mail postage pre-paid, to the following:

Mr. Jeffery Lance Bowling  
d/b/a East Kentucky Waste Control  
153 George Branch  
East Point, KY 41216-8707

  
\_\_\_\_\_  
John S. West

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION I

**FILED**  
MAY 19 2006  
FRANKLIN CIRCUIT CLERK  
JANICE MARSHALL, CLERK

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

PLAINTIFF

VS.           **MOTION FOR A SECONDED SHOW CAUSE ORDER  
AGAINST JEFFREY LANCE BOWLING**

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

DEFENDANT

\*\*\*\*\*

Comes the Plaintiff, Environmental and Public Protection Cabinet, through counsel, and moves this Court for an Order requiring that Jeffery Lance Bowling, show cause why he should not be held in contempt for failure to comply with the Order of this Court entered July 26, 2005 requiring Jeffery Lance Bowling to stop discharging or allowing the discharge from the above captioned package plants in Johnson County, Kentucky sewage waste and/or constituents or pollutants that is not treated in accordance with proper operation and maintenance of the facility and in violation of the Clean Water

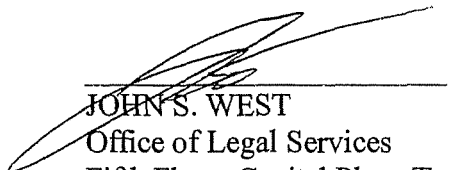
Act and 401 KAR Chapter 5. To stop exceeding the limits set out in KPDES permits. And to stop allowing or depleting or allowing to be depleted by negligence and/or inaction above captioned package plants in Johnson County, Kentucky, including the mechanical equipment located thereon, the buildings and structures located thereon and appurtenant thereto, and/or the receiving ponds, piping or structures

In support of its Motion the Cabinet submits the enclosed affidavit.

**NOTICE**

Defendant, Jeffery Lance Bowling will hereby take notice that the foregoing Motion will come on for hearing on Wednesday, May 31, 2006 at the Franklin County Courthouse, 218 St. Clair Street in Frankfort, Kentucky at 9:00 a.m. or as soon thereafter as counsel may be heard.

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET



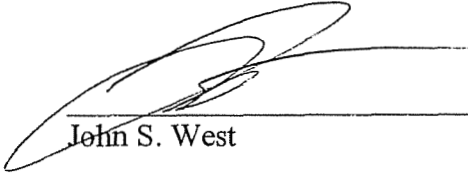
JOHN S. WEST  
Office of Legal Services  
Fifth Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601  
(502) 564-5576 Telephone  
(502) 564-6131 Facsimile

COUNSEL FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on the 19 day of May, 2006, a true and accurate copy of the foregoing MOTION FOR A SECOND SHOW CAUSE ORDER AGAINST JEFFERY LANCE BOWLING was mailed, postage prepaid to the following:

Mr. Jeffery Lance Bowling  
d/b/a East Kentucky Waste Control  
153 George Branch  
East Point, KY 41216-8707



John S. West

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION NO. I

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET

PLAINTIFF

VS.

SHOW CAUSE ORDER

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

DEFENDANT

\*\*\*\*\*

This matter came before the court upon the Plaintiff's Motion for Show Cause Order requiring the Defendant to appear and show cause, if any, why he should not be held in contempt of Court for his failure to comply with this Court's Order entered on July 26, 2005. The Court having reviewed the record, and being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Defendant, Jeffery Lance Bowling shall appear in Franklin Circuit Court, Judge Crittenden's chambers, Franklin County Courthouse, 218 St. Clair Street, Frankfort, Kentucky on \_\_\_\_\_, at \_\_\_\_\_ and show cause, if any, why they should not be held in contempt of court for violation of this Court's order. Failure by the Defendants to appear at the hearing will result in an entry of an Order of Contempt and issuance of a bench warrant for their arrest for such failure.

Entered, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Judge, Franklin Circuit Court

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION I

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

PLAINTIFF

vs.

**AFFIDAVIT FOR SHOW CAUSE**

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

DEFENDANT

\*\*\*\*\*

Comes now your Affiant, George Flora, pursuant to Civil Rule 65.01, and states as follows:

The Affiant, George Flora, is employed by the Environmental and Public Protection Cabinet as an Inspector with the Division of Water.

As such, he has been assigned to various duties associated with the spills and bypasses of untreated sewage.

By reason of his job experience and education, your Affiant is knowledgeable about the environmental effects of pollutants and contaminants, including untreated sewage.

There are serious health concerns for the people who reside in the subdivisions at issue.

In the Affiant's professional opinion, the spills and bypasses of untreated sewage has the potential to cause both serious public health problems and serious environmental problems.

The Affiant spoke to the individuals involved and observed the facilities in question on Friday, May 12, 2006, and discovered conditions as follows:

#1- Larry Stambaugh is still the operator of record, although he does not appear to be operating the plants correctly.

#2- Lance Bowling admittedly has not been following up on Larry Stambaugh's work, as he was hired to make corrections and bring the plants back into compliance.

#3- Burkeshire Sub. - 2 diffusers are out, there are heavy solids buildup ion the clarifier, the chlorine contact unit is septic and they have not removed various pieces of debris from inside the compound fence.


#4- Paradise Village – The skim return line is out of service and the clarifier has a heavy scum mass covering it.

#5- Richmond Hills – The entire plant is in a septic condition, with none of the return lines working.

#6- Preston Estates – The plant is running fine, however the lift station serving it is overflowing and running down a hillside toward the creek.

#7 – Neil Price Sub. – The entire plant is septic; the skim return line is out of service. There is raw sewage popping up to the surface of the ground around it.


Further Affiant sayeth not.

  
\_\_\_\_\_  
George Flora, Environmental Inspector  
Environmental and Public Protection Cabinet

Commonwealth of Kentucky

Subscribed and sworn to before me by George Flora this the 18<sup>th</sup> day of May,

2006.

  
\_\_\_\_\_  
Notary Public

My Commission Expires 10/20/2009



COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION I

**ENTERED**  
DEC 21 2006  
FRANKLIN CIRCUIT COURT  
SALLY JUMP, CLERK

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

PLAINTIFF

VS.

**TEMPORARY INJUNCTION ORDER**  
**APPOINTING A TEMPORARY RECEIVER**

JEFFREY LANCE BOWLING  
d/b/a EAST KENTUCKY WASTE CONTROL  
d/b/a PARADISE VALLEY SEWAGE PLANT  
(KPDES No. KY0076686)  
d/b/a PRESTON ESTATES SEWAGE PLANT  
(KPDES No. KY0080047)  
d/b/a RICHMOND HILLS ESTATES SEWAGE PLANT  
(KPDES No. KY0093823)  
d/b/a NEAL PRICE SEWAGE PLANT  
(KPDES No. KY0097225)  
d/b/a BURKESHIRE DEVELOPMENT SEWAGE PLANT  
(KPDES No. KY0102687)

DEFENDANT

\*\*\*\*\*

This matter having come before this Court on the Environmental and Public Protection Cabinet's Motion for a Temporary Injunction To Appoint Temporary Receiver and the Court having reviewed the Cabinet's Motion and the Affidavit attached thereunto and being otherwise fairly and fully advised and being of the opinion that the Cabinet is entitled to the temporary injunction order requested and being of the opinion that the Cabinet shall suffer irreparable injury and damage by any necessarily delay;

THEREFORE, IT IS HEREBY ORDERED that this Court does appoint a temporary receiver to act until the appointment of a permanent receiver.

THEREFORE, IT IS HEREBY ORDERED that Squire N. Williams III be appointed as Special Master Commissioner and temporary receiver to collect rates for the five (5) above-captioned plants and to pay the operator that will be appointed by the Cabinet.

THEREFORE, IT IS HEREBY ORDERED the Cabinet will petition the Public Service Commission to take the necessary steps to appoint a permanent receiver to take over the five (5) above-captioned plants, pursuant to KRS 278.021.

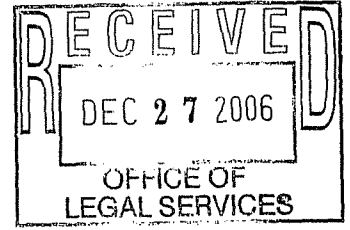
THEREFORE, IT IS HEREBY ORDERED the Defendant will furnish the Cabinet with a list of ratepayers and information on which ratepayers are delinquent on their bills, how much they owe, and any other information the Cabinet needs to operate the plant.

IT IS FURTHER HERBY ORDERED AND ADJUDGED that the Temporary Injunction Order entered by this Court on July 26, 2005, remains in effect.

Entered this the 21 day of December, 2006 at the hour of 10:50<sup>A.M.</sup> EST.

  
\_\_\_\_\_  
JUDGE, FRANKLIN CIRCUIT COURT

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
CIVIL ACTION NO. 05-CI-1007  
DIVISION NO. I



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

PLAINTIFF

VS.

**ENTRY OF APPEARANCE**

JEFFERY LANCE BOWLING, ET AL

DEFENDANT

\*\*\*\*\*

Comes now the undersigned counsel and enters his appearance as counsel for the above named Defendant. All future correspondence and pleadings shall be mailed to the undersigned at the address below.

RESPECTFULLY SUBMITTED,

PILLERSDORF, DEROSSETT & LANE  
124 WEST COURT STREET  
PRESTONSBURG, KEN 41653  
(606) 886-6090 / FAX: 886-6148

  
\_\_\_\_\_  
NED PILLERSDORF

**CERTIFICATE OF SERVICE**

This is to certify that a true and accurate copy of the foregoing was this day mailed to: **HON. JOHN S. WEST**, Office of Legal Services, Fifth Floor, Capital Plaza Tower, Frankfort, Kentucky 40601; **JEFFERY LANCE BOWLING**, 100 George Branch, East Point, Kentucky 41216 and the original to: **CLERK**, Franklin Circuit Court, P. O. Box 678, Frankfort, Kentucky 40601 on this the 21 day of December, 2006.

  
\_\_\_\_\_  
NED PILLERSDORF