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PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

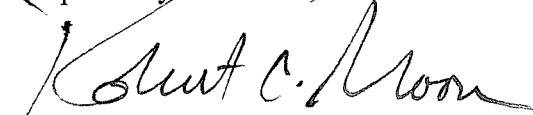
In the Matter of:

JOINT APPLICATION OF R.A. WILLIAMS )  
CONSTRUCTION COMPANY, INC., )  
AND CEDARBROOK UTILITIES, LLC ) Case No. 2008-00040  
FOR APPROVAL OF THE TRANSFER OF )  
WASTEWATER TREATMENT PLANT TO )  
CEDARBROOK UTILITIES, LLC )

**NOTICE OF FILING**

Come the Joint Applicants, R.A. Williams Construction Company, Inc. (R.A. Williams) and Cedarbrook Utilities, LLC, by counsel, and hereby file the fully executed Agreed Order entered into by R.A. Williams in Environmental and Public Protection Cabinet File No. DOW-33217-156. This Agreed Order was entered by the Secretary of the Environmental and Public Protection Cabinet on March 14, 2008, and requires R.A. Williams to transfer to Cedarbrook WWTP.

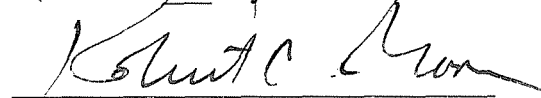
Respectfully submitted,



Robert C. Moore  
Hazelrigg & Cox, LLP  
415 West Main Street  
P.O. Box 0676  
Frankfort, Kentucky 40602-0676

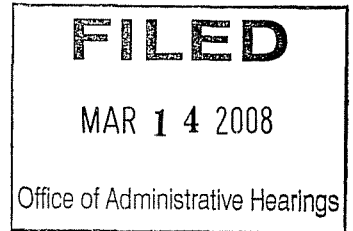
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was filed by hand delivery on Beth O'Donnell, Executive Director, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602, and J. R. Goff, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602, and by first class mail on David Edward Spenard, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Ky., 40601-8204 on this the 18<sup>th</sup> day of March, 2008.

  
Robert C. Moore

REC'D MAR 17 2008

COMMONWEALTH OF KENTUCKY  
ENVIRONMENTAL AND PUBLIC PROTECTION CABINET  
FILE NO. DOW-33217-156



IN RE: R.A. Williams Construction Company, Inc.  
153 Prosperous Way, Suite 1A  
Lexington, Kentucky 40509  
Agency Interest No. 1754

**AGREED ORDER**

\* \* \* \* \*

**WHEREAS**, the parties to this Agreed Order, the Environmental and Public Protection Cabinet (hereinafter "Cabinet") and R.A. Williams Construction Company, Inc. (hereinafter "R.A. Williams"), state:

**STATEMENTS OF FACT**

1. The Cabinet is charged with the statutory duty of enforcing KRS Chapter 224, and the regulations promulgated pursuant thereto.
2. R.A. Williams, a Kentucky corporation in good standing, owns and operates a wastewater treatment plant (WWTP) with a sewer system (hereinafter "facility") serving the Cedarbrook Subdivision on U.S. Highway 27 south of Cynthiana in Harrison County, Kentucky.
3. R.A. Williams holds Kentucky Pollutant Discharge Elimination System (KPDES) Permit No. KY0076635, issued by the Cabinet's Division of Water, for the discharge of treated effluent into an unnamed tributary of Townsend Creek from the facility.
4. On August 22, 2003, the Cabinet entered into Agreed Order No. DOW 02501 with R.A. Williams to abate violations that occurred in 2001 and 2002 at the facility.

5. On or about the dates listed below, authorized representatives of the Cabinet identified the following alleged violations of KRS Chapter 224 and the regulations promulgated pursuant thereto at the facility described in paragraph 2 above:

- a. 401 KAR 5:005 – Failure to provide an appropriate disinfection system on August 4, 2004;
- b. 401 KAR 5:010 – Failure to provide a certified operator on October 28, 2005;
- c. 401 KAR 5:031 – Degrading the waters of the Commonwealth on August 4, 2004;
- d. 401 KAR 5:065 – Failure to comply with terms and conditions of KPDES permit on August 4, 2004;
- e. 401 KAR 5:065 – Failure to comply with KPDES permit effluent discharge limitations on March 9, 2004, August 4, 2004, and October 28, 2005;
- f. 401 KAR 5:065 – Failure to provide proper operation and maintenance of the Facility on August 4, 2004, and October 28, 2005; and
- g. 401 KAR 5:065 – Failure to submit Discharge Monitoring Reports on October 28, 2005.

6. On or about March 10, 2004, August 12, 2004, and November 4, 2005, the Cabinet issued R.A. Williams notices of violations for the violations described in paragraph 5 above.

7. On July 5, 2006, the Cabinet issued a written demand for payment of civil penalty to R.A. Williams for its failure to complete supplemental environmental projects set forth in Agreed Order DOW 02501.

8. R.A. Williams neither admits nor denies the violations described above but accepts civil liability for those violations as alleged above.

**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**

9. R.A. Williams shall perform the following remedial measures by the dates specified herein:

- a. R.A. Williams shall convey the facility to a third party approved by the Public Service Commission in a sale approved by the Public Service Commission. The Cabinet acknowledges that R.A. Williams submitted an application to the Public Service Commission on February 1, 2008 for approval to sell the facility to Cedarbrook Utilities, LLC, a Kentucky limited liability company in good standing. If the Public Service Commission does not approve the sale to Cedarbrook Utilities, LLC, then R.A. Williams shall submit a new application to approve the sale of the facility to the Public Service Commission within one hundred and twenty (120) days of that commission's disapproval.
- b. R.A. Williams 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 requirement until the facility described in

paragraph 2 above is conveyed by R.A. Williams to a third party in a sale approved by the Public Service Commission.

- c. Within thirty (30) days of the Public Service Commission's approval of the sale of the facility, R.A. Williams shall submit a "change in ownership certification" form to the Division of Water, KPDES Branch, 14 Reilly Road, Frankfort, Kentucky 40601 certifying that the entity approved by the Public Service Commission is the owner of the facility and accepts responsibility for compliance with the facility's KPDES permit.

#### **PENALTIES**

10. R.A. Williams shall pay the Cabinet a civil penalty in the amount of seven thousand five hundred dollars (\$7,500) for the violations described above. The amount of the civil penalty shall be tendered by R.A. Williams to the Cabinet with the return of this signed Agreed Order.

11. Payment of civil penalties shall be by cashier's check, certified check, or money order, made payable to "Kentucky State Treasurer" and sent to the attention of the Director, Division of Enforcement, Department for Environmental Protection, 300 Fair Oaks Lane, Frankfort, Kentucky 40601. Note "File No. DOW-33217-156" on the instrument of payment.

#### **MISCELLANEOUS PROVISIONS**

12. This Agreed Order addresses only those violations specifically described above. Other than those matters resolved by entry of this Agreed Order 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 R.A. Williams reserves its defenses thereto. The Cabinet

expressly reserves its right at any time to issue administrative orders and to take any other action it deems necessary that is not inconsistent with this Agreed Order, including the right to order all necessary remedial measures, assess penalties for violations, or recover all response costs incurred, and R.A. Williams reserves its defenses thereto.

13. This Agreed Order shall not prevent the Cabinet from issuing, reissuing, renewing, modifying, revoking, suspending, denying, terminating, or reopening any permit to R.A. Williams. R.A. Williams reserves its defenses thereto, except that R.A. Williams shall not use this Agreed Order as a defense.

14. R.A. Williams waives its right to any hearing on the matters alleged herein. However, failure by R.A. Williams to comply strictly with any or all of 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.

15. The Agreed Order may not be amended except by a written order of the Cabinet's Secretary or his designee. R.A. Williams may request an amendment by writing the Director of the Division of Enforcement at 300 Fair Oaks Lane, Frankfort, Kentucky 40601 and stating the reasons for the request. If 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 R.A. Williams' 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, R.A. Williams 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 and compliance schedule requirements.

17. R.A. Williams 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 part of its now-existing facility 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, R.A. Williams shall remain fully responsible for payment of all civil penalties and response costs 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 penalty by R.A. Williams to satisfy R.A. Williams' obligations to the Cabinet generated by the violations described above.

19. The Cabinet and R.A. Williams agree that the remedial measures agreed to herein are facility-specific and designed to comply with the statutes and regulations cited herein. This Agreed Order applies specifically and exclusively to the unique facility referenced herein and is inapplicable to any other site or facility.

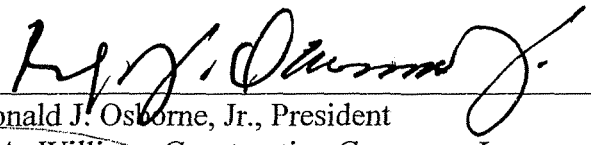
20. This Agreed Order shall be of no force and effect unless and until it is entered by the Secretary or his designee as evidenced by his signature thereon. If this Agreed Order contains any date by which R.A. Williams is to take any action or cease any activity, and the Secretary enters the

Agreed Order after that date, then R.A. Williams is nonetheless obligated to have taken the action or ceased the activity by the date contained in this Agreed Order.

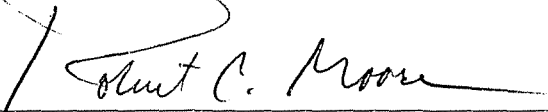
**TERMINATION**

21. This Agreed Order shall terminate upon R.A. Williams' completion of all requirements described in this Agreed Order. R.A. Williams may submit written notice to the Cabinet when it believes all requirements have been performed. The Cabinet will notify R.A. Williams in writing of whether it intends to agree with or object to termination. The Cabinet reserves its right to enforce this Agreed Order, and R.A. Williams reserves its right to file a petition for hearing pursuant to KRS 224.10-420(2) contesting the Cabinet's determination.

**AGREED TO BY:**

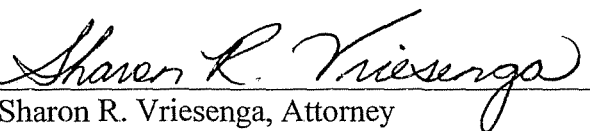
  
\_\_\_\_\_  
Ronald J. Osborne, Jr., President  
R.A. Williams Construction Company, Inc.

2/22/08  
Date

  
\_\_\_\_\_  
Robert C. Moore, Attorney  
For R.A. Williams Construction Company, Inc.

2/25/08  
Date

**APPROVAL RECOMMENDED BY:**

  
\_\_\_\_\_  
Sharon R. Vriesenga, Attorney  
Office of Legal Services

2/26/08  
Date

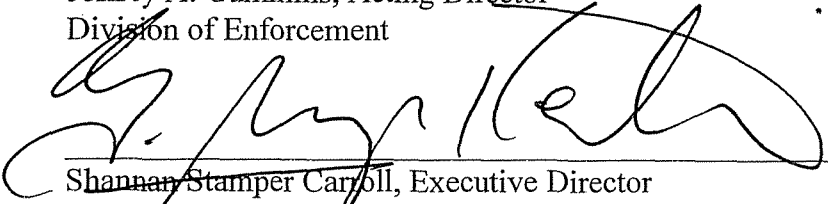




Jeffrey A. Cummins, Acting Director  
Division of Enforcement

2/28/08

Date



Shannan Stamper Carroll, Executive Director  
Office of Legal Services

3/10/08

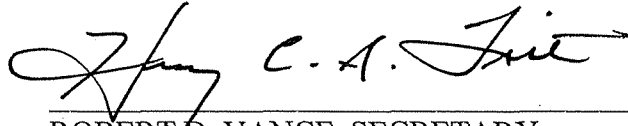
Date

F. RYAN KEITH

ORDER

Wherefore, the foregoing Agreed Order is entered as the final Order of the Environmental and Public Protection Cabinet this 14<sup>th</sup> day of March, 2008.

ENVIRONMENTAL AND PUBLIC  
PROTECTION CABINET

A handwritten signature in black ink, appearing to read "Robert D. Vance", written over a horizontal line.

ROBERT D. VANCE, SECRETARY

**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 14<sup>th</sup> day of March, 2008.

Ronald J. Osborne, President  
R.A. Williams Construction Company, Inc.  
153 Prosperous Way, Suite 1A  
Lexington, Kentucky 40509

Robert C. Moore  
Attorney for R.A. Williams Construction Company, Inc.  
Hazelrigg & Cox, LLP  
415 West Main Street  
Post Office Box 676  
Frankfort, Kentucky 40602-0676

and mailed, messenger to:

Jeffrey A. Cummins, Acting Director  
Division of Enforcement  
14 Reilly Road  
Frankfort, Kentucky 40601

Sharon R. Vriesenga  
Office of Legal Services  
Fifth Floor Capital Plaza Tower  
Frankfort, Kentucky 40601

  
\_\_\_\_\_  
DOCKET COORDINATOR

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