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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE CONDITION AND)
MANAGEMENT OF BIG VALLEY SANITATION, INC.) CASE NO. 2009-00378
AND WOODLAND ACRES SANITATION, INC.)
SEWAGE TREATMENT FACILITIES)

POST-HEARING BRIEF

Comes now the Energy and Environment Cabinet (hereinafter, “the Cabinet”), and for its post-hearing brief in the above-styled action, states the following:

At the outset, the Cabinet notes that the issue of abandonment with regard to the Woodland Acres Mobile Home Park is moot. In July 2009, the Estate of John Ford (hereinafter, “the Estate”) conveyed its interest in the property to Joe Murphy, a certified wastewater treatment operator. Since Mr. Murphy has claimed an ownership interest in the mobile home park and has worked to keep the wastewater treatment plant there operating, and since Mr. Murphy has requested that the Public Service Commission approve the transfer of ownership of the wastewater plant to him, it cannot be said that the property, at least since July 2009, has been abandoned.

Although the Cabinet will only argue that the Big Valley Mobile Home Park was abandoned, a portion of the following analysis will involve both mobile home parks. References to the record of the hearing will be to the time clock on the videotaped record which will be designated as “VR.”

A. OWNERSHIP OF THE MOBILE HOME PARKS

A central argument of the Estate of John Ford is that John Ford never owned the Big Valley and Woodland Acres Mobile Home Parks. The testimony from Cabinet inspector Brad

Trivette was that he had inspected the wastewater treatment plants at these locations numerous times over the last few decades. During all of these inspections, the Cabinet was led to believe that Mr. Ford was the owner. Trivette testified that not only was Mr. Ford the KPDES permit holder, but that Ford represented to him that he owned the mobile home parks. (VR 10:40:55-10:40:56; 10:41:04-10:41:13). Additionally, Larry Smither, a wastewater operator, wrote a letter to the then-supervisor of the Louisville regional office of the Division of Water, Mr. Michael Mudd. In the letter, dated December 27, 2006, Smither wrote that he was acting “[o]n behalf of John Ford, owner of the Big Valley Subdivision WWTP...”

Similar representations of ownership were also made to Mr. Murphy. Mr. Murphy testified that he had known Mr. Ford for at least twenty years and was a friend of his. Due to this long-lasting friendship, Mr. Murphy answered affirmatively that he felt confident in the knowledge that Mr. Ford owned these mobile home parks. (VR 11:17:03-11:17:24).

Accordingly, the great weight of the evidence adduced at the hearing is that John Ford was the owner of these properties.

B. ABANDONMENT

As for the Big Valley facility, it was practically undisputed at the hearing that it has been abandoned. Mr. Trivette testified that the condition at the plant worsened in the time period after Mr. Ford’s death, but before the Bullitt County Sanitation District (hereinafter, “Sanitation District”) became involved with the operations there. (VR 10:51:17-10:51:40). Mr. Murphy does not want any ownership interest in Big Valley (VR 11:12:13-11:12:32; 11:17:25-11:17:50) and the Sanitation District wants to divest itself of any interest in the property as soon as possible. (VR 11:39:30-11:39:47). The Estate, through its pleadings before the Commission, has


disclaimed any interest in the property and Charles Gribbons, the executor of the Estate, testified that he was not aware of the daily happenings at Big Valley. (VR 10:26:43-10:26:52).

In summation, the evidence at the hearing weighs in favor of finding that the Big Valley Mobile Home Park wastewater treatment plant has been abandoned.

WHEREFORE, the Cabinet respectfully moves the Commission to find that the Big Valley Mobile Home Park wastewater treatment plant was abandoned after the death of Mr. Ford and that a receiver be appointed to direct and oversee the operation and maintenance of the facility.

Respectfully Submitted,

ENERGY AND ENVIRONMENT
CABINET



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CERTIFICATE OF SERVICE

I hereby certify that on the ~~10th~~ day of June, 2010, a true and accurate copy of the foregoing brief was mailed, postage prepaid, or faxed, to the following:

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