

By Order entered October 13, 1983, the Commission directed Suburban to file a detailed plan and schedule for the completion of repairs and improvements needed to bring its sewage facilities into compliance with 807 KAR 5:071, Section 5(1). Suburban did not respond to this Order. On April 26, 1984, an Order was entered directing Suburban to appear at the offices of the Commission and show cause for failure to comply with the Commission's regulations. Suburban did not appear, and the Commission determined that a second investigation was necessary to decide if the plant was still in violation of regulations as originally reported on June 22, 1983. A second investigation was made of Suburban on May 22, 1984. This investigation found Suburban to be in need of repairs and improvements as described in the June 22, 1983, report.

By Order entered May 11, 1984, the Commission again directed Suburban to appear before it and show cause for failure to comply with the Commission's regulations.

A hearing was held in Frankfort, Kentucky, on June 7, 1984, and all parties of interest were given an opportunity to be heard. Mr. Paul Pelphrey answered the Commission's subpoena for Suburban.

COMMENTARY

The Commission, by letter dated May 14, 1984, advised Ms. Vandella Caudill that a hearing had been scheduled on her complaint against Suburban. Ms. Caudill appeared at the

hearing of June 7, 1984, along with three other customers of Suburban, Ms. Geraldine Adams, and Ms. Janice Gray, and Paul Pelphrey.

Ms. Caudill testified that she has been a customer of Suburban for 5 years. During that time, she has paid her sewage bill to Suburban, in care of Justine Pelphrey. For the past year, Suburban has not been operating the plant and Ms. Caudill has not paid a sewage bill. Ms. Caudill's home is located adjacent to Suburban. She has periodically cleaned out the plant and drainage line to keep sewage from backing into her home. On occasion she has added Clorox bleach to the sewage at the plant to reduce the offensive odor and to reduce insect infestation.

Ms. Adams testified that she has been a customer of Suburban for 9 years. Originally, her sewer bills were paid in care of Paul Pelphrey, Hager Hill, Kentucky. Later, the billing address changed to Paul Pelphrey, Route 11, Depot Road, and subsequently to Suburban Sewage, Incorporated, in care of Paul Pelphrey, 409 Broadway, Paintsville, Kentucky. Currently, her sewer bill is paid to Suburban Sewage Treatment, 409 Broadway, Paintsville, Kentucky, in care of Justine Pelphrey. Ms. Adams presented her past sewage bills in evidence of this testimony.

Ms. Gray stated that she has been a customer of Suburban for 8 years. Originally, her sewer bill was paid in care of Paul Pelphrey, Route 11, Depot Road, Paintsville, Kentucky. Later the billing address was changed to Suburban Sewage Treatment in care of Justine Pelphrey. Approximately 3 years ago Ms. Gray quit paying her sewage bill on a regular basis when Suburban quit operating the treatment plant. She is concerned about the offensive odor generated by Suburban and the possibility of mosquitoes breeding in the plant.

Mr. Pelphrey testified that he has been a customer of Suburban for 12 years. He has constructed a number of homes within the development of Paradise Valley Subdivision and sold lots which adjoin the subdivision on a nearby hill. Of the houses constructed by Mr. Pelphrey and the lots sold by him, a number are connected to Suburban. Mr. Pelphrey and two customers are responsible for hooking the electrical service to Suburban by a meter connection listed in Justine Pelphrey's name. Mr. Pelphrey sold the property Suburban is located on to his wife, Justine, approximately 8 years ago. Suburban was constructed on Mr. Pelphrey's property by Wayne T. Morgan. Mr. Morgan was to rent this property from Mr. Pelphrey for \$35 per month and be responsible for Suburban's operation and maintenance. Mr. Morgan died approximately 5 years ago. The billing address for Suburban is 409 Broadway, Paintsville, Kentucky, in care of Justine Pelphrey. This

address is also the location for Block Coal Company, Inc., of which Mr. Pelphrey is president. Mr. Pelphrey has no knowledge of Suburban's payments coming to this address at 409 Broadway, Paintsville, Kentucky. Justine Pelphrey has no business association with any business located at this address.

FINDINGS AND ORDERS

The Commission, after examining the record and being advised, is of the opinion and finds that:

1. A sewage collection and treatment system was constructed to serve approximately 16 customers in the Paradise Village/Hager Hill Subdivision, circa 1971, prior to the legislative requirement for this Commission's approval for such construction.

2. No record has been found to show that the sewer system commonly known as Suburban has complied with the requirements of KRS 278 and 807 KAR to report its existence and operation to this Commission.

3. The records of the Secretary of State's office do not list a Suburban Sewage Treatment, Inc., as being incorporated under the laws of the Commonwealth.

4. The sewage treatment plant is constructed on property originally owned by Mr. Paul Pelphrey and subsequently sold to his wife, Justine Pelphrey.

5. Mr. Paul Pelphrey has used his business addresses of Route 11, Depot Road, and 409 Broadway, Paintsville,

Kentucky, as destinations for payment of Suburban's sewage bills in care of either Paul Pelphrey or Justine Pelphrey.

6. Suburban's customers have been receiving sewage bills from either Paul or Justine Pelphrey for a period of 9 years.

7. Paul and Justine Pelphrey have acted on behalf of Suburban in sending letters to customers informing them of rate increases.

8. Paul and Justine Pelphrey have endorsed customers' checks made payable to Suburban.

9. Paul Pelphrey has performed maintenance on Suburban's sewage plant and collection system.

10. The electrical service supplied to Suburban's treatment plant is listed in the name of Justine Pelphrey.

11. Paul Pelphrey entered into an agreed order on October 15, 1979, with the Department for Natural Resources and Environmental Protection identifying himself as president of Suburban Sewage Treatment, Inc.

12. Paul Pelphrey and Justine Pelphrey, jointly and individually, are the possessors, operators, and beneficial owners of the sewer system known as Suburban.

IT IS THEREFORE ORDERED that Paul Pelphrey and Justine Pelphrey are the owners of the sewage collection and treatment system known as Suburban Sewage Treatment, Inc.

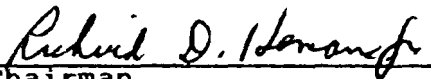
IT IS FURTHER ORDERED that Suburban shall file with this Commission the financial exhibits required by 807 KAR 5:001, Section 6, within 90 days of the date of this Order.

IT IS FURTHER ORDERED that Suburban shall file an application with this Commission for approval of rates for sewer service within 90 days of the date of this Order.

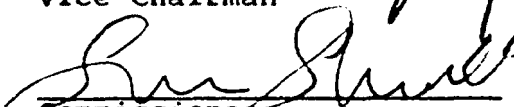
IT IS FURTHER ORDERED that Suburban shall take immediate action to bring the operation of the sewage treatment plant into compliance with the regulations of the Natural Resources and Environmental Protection Cabinet and of this Commission.

Done at Frankfort, Kentucky, this 24th day of August, 1984.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary