

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE ALLEGED)
DEFICIENCIES OF RIDGEWOOD) CASE NO. 9991
SUBDIVISION SEWER PLANT)

O R D E R

Ridgewood Subdivision Sewer Plant ("Ridgewood"), is a sewage treatment facility which serves 30 customers in the Ridgewood Subdivision of Franklin County, Kentucky. It is owned by Jesse B. Marston and is currently operated by James E. Terrell. Pursuant to KRS 278.010(3)(f) and 278.040(2),¹ this Commission has jurisdiction over Ridgewood and Messrs. Marston and Terrell.

On August 25, 1987, the Commission ordered Messrs. Marston and Terrell to appear before it and present evidence concerning the maintenance and operation of Ridgewood. This action was taken after the Commission Staff submitted a Utility Inspection Report alleging several violations of Commission regulations in the areas of plant maintenance and operation.

A hearing before this Commission on this matter was held on September 24, 1987. Notice of these proceedings was provided to

¹ KRS 278.010(3)(f) states:
"Utility' means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with the treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, . . ."

KRS 278.040(2) states: "The jurisdiction of the commission shall extend to all utilities in this state...."

Messrs. Marston and Terrell.² Mr. Terrell appeared and gave testimony. Mr. Marston failed to appear. Larry N. Updike, a Staff utility investigator, testified for the Commission Staff.

PLANT MAINTENANCE

Mr. Updike testified that he inspected Ridgewood twice in 1987 for the Commission Staff. During his first inspection, conducted on April 28, he found several deficiencies in equipment maintenance.³ Two pieces of essential equipment, a blower and motor, were not operating because of missing parts. The plant's diffusers, which supply diffused air to the aeration tank, did not operate. Nor did the skimmers in the plant's clarifier.⁴ Sludge filled the trough of clarifier. Unless removed, it would likely pass into the plant's lagoon and contaminate it.

The inspection also uncovered several maintenance problems with the plant structure. The fence surrounding the plant had gaps under which a large person could easily pass.⁵ A large body of water had been allowed to settle around the aeration tank and clarifier,⁶ exposing these structures to a greater risk of rusting. The sewer line was ruptured and sewage was bypassing the

² Copies of the Order to Show Cause were mailed to Ridgewood's address of record. Mr. Terrell testified that he received a copy of this Order. He further stated that Mr. Marston had acknowledged receipt of the Order in a conversation with him. (Transcript, pp. 22-23)

³ A complete listing of the plant's deficiencies is contained in Mr. Updike's Inspection Report. Staff Exhibit B.

⁴ According to Mr. Updike's testimony, scum was floating on the surface of the clarifier and appeared to be bulking. Transcript, p. 30.

⁵ Staff Exhibit 2.

plant.⁷ The area surrounding the plant's manhole was severely eroded.

The second inspection was performed on August 24. Mr. Updike found that several of the deficiencies had been corrected.⁸ The following deficiencies remained:

- large gaps in the plant's fence
- water surrounds the aeration tank and clarifier
- nonfunctioning skimmers and diffusers
- severe erosion around the plant's manhole
- dirty clarifier.

This inspection also revealed a defect in the plant's clarifier. The sludge return line from the clarifier is routed directly to the plant's digester. Because the digester lacks diffusers, the sludge will not receive the proper aeration. The opening of the digester, according to Mr. Updike, needs a gate which opens only when sludge is to be wasted.

Mr. Terrell, Ridgewood's current operator, did not dispute Mr. Updike's testimony. He acknowledged the deficiencies found on Mr. Updike's first inspection.⁹ He also testified that repairs to correct these deficiencies were started in April 1987. The plant's blowers and motors are now operational. Spare parts for them are now stocked at the plant. The broken sewer line has been

6 Staff Exhibit 5.

7 Staff Exhibits 6 and 7.

8 Staff Exhibit 8.

9 Transcript, p. 18.

repaired and a holding tank installed to prevent sewage bypass. The skimmers were also repaired. Mr. Terrell also stated that the plant's clarifier recently was cleaned and all sludge removed.¹⁰ As proof of the progress achieved since April, he submitted a recent inspection report from the Franklin County Health Department.¹¹ The report indicated that the plant was in compliance with Health Department requirements as of September.

Mr. Terrell conceded additional repairs were required. These repairs included:

- removal of water surrounding the aeration plant and clarifier
- repair of erosion surrounding the plant's manhole
- replacement or repair of diffusers.

He assured the Commission that these would be made very soon.¹²

Commission regulations require that sewage treatment facilities be "maintained and operated in accordance with accepted good engineering practice to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property." 807 KAR 5:071, Section 7.

The evidence clearly shows that Ridgewood has not been maintained and operated in accordance with accepted good

¹⁰ Mr. Terrell testified this work was done in mid-September 1987, after Mr. Updike's second inspection.

¹¹ Ridgewood Exhibit i.

¹² Transcript, p. 19. Mr. Terrell has not advised this Commission of any repairs performed since the hearing.

engineering practices. Poor maintenance has adversely affected the quality of service provided by Ridgewood. Furthermore, it has threatened public health and safety. The sewage bypass, the possible contamination of the lagoon, and the easy accessibility to plant through its poorly-kept fence are examples of the threat.

The evidence also shows that steps have been taken to correct the deficiencies found. The deficiencies listed in Appendix A of this Order, however, still remain. Until these are corrected, the plant will not be in compliance with 807 KAR 5:071.

PLANT OPERATOR

In his testimony, Mr. Terrell disclosed that he did not hold an operator's certificate from the Kentucky Board of Certification of Waste System Operators.¹³ According to the regulations of the Division of Water, Natural Resources Cabinet, each sewage system must be operated by a certified operator. 401 KAR 5:010, Section 2(1) states:

Each wastewater system must be operated under the supervision of an individual holding a current Kentucky operator's certificate for at least the class of system he/she supervises. Certified operators are required for the operation of all wastewater treatment facilities.

Ridgewood is currently operating in violation of that regulation.

This Commission's regulations do not expressly incorporate 401 KAR 5:010 nor does this Commission possess the power to enforce another agency's regulations. However, we feel that accepted good engineering practice requires that an operator have the requisite knowledge and training to operate a sewage system

¹³ Transcript, p. 20. Mr. Terrell also testified that he is the only person to operate and maintain the plant.

safely and efficiently. Certification is the only available means of assuring that an operator possesses these qualities.¹⁴ Therefore, we interpret 807 KAR 5:071, Section 1 to require that a person with primary responsibility for the operation of a sewage system hold a current operator's certificate from the Kentucky Board of Certification of Waste System Operators.

Because Mr. Marston does not hold such a certificate, Ridgewood is in violation of 807 KAR 5:071.

FINDINGS AND ORDERS

After examining the evidence of record and being advised, the Commission is of the opinion and finds that:

1. Mr. Jesse B. Marston is the owner of the Ridgewood Subdivision Sewer Plant, a subdivision treatment facility which treats sewage for the public for compensation. This Commission has jurisdiction over him by virtue of the provisions of KRS 278.010 and 278.040 and of service upon him of notice and hearing.

2. The Commission regulations require Mr. Marston to maintain and operate Ridgewood in accordance with accepted good engineering practice. 807 KAR 5:071, Section 7.

3. All of the deficiencies in Ridgewood's maintenance and operation which are alleged in the Staff's Utility Investigation Report of May 6, 1987, existed on April 28, 1987, and for several months prior thereto.

¹⁴ To obtain an operator's certificate, an applicant must meet certain educational and experience requirements. He must successfully complete a written examination. To retain his certificate, he must undergo at least six hours of training each year.

4. On September 24, 1987, when proceedings were held before this Commission, deficiencies in Ridgewood's maintenance and operation still existed. A list of these deficiencies is contained at Appendix A.

5. The deficiencies, prior and current, threaten the quality of service being provided to Ridgewood customers and threatened public health and safety.

6. The deficiencies occurred because of Mr. Marston's failure to maintain and operate Ridgewood in accordance with good accepted engineering practice.

7. Accepted good engineering practice requires that a person with primary responsibility for the operation of a sewage system hold a current operator's certificate from the Kentucky Board of Certification of Wastewater System Operators.

8. Mr. James E. Terrell, who Mr. Marston has entrusted with primary responsibility for operating Ridgewood, does not hold an operator's certificate from the Kentucky Board of Certification of Wastewater System Operators.

9. Mr. Marston is in violation of 807 KAR 5:071 for failing to maintain and operate Ridgewood in accordance with accepted good engineering practice.

10. All deficiencies listed in Appendix A should be corrected as soon as possible. Mr. Marston should furnish the Commission with a monthly report on the progress of the correction of these deficiencies.

11. Mr. Marston should obtain a certified wastewater system operator to operate Ridgewood as soon as possible. The employment

of such an operator should be reported immediately to the Commission.

12. Pursuant to its authority under KRS 278.990, the Commission should fine Mr. Marston the sum of \$500 for his violations of Commission regulations. Imposition of this fine should be suspended for a period of 6 months to allow him to correct the deficiencies in Ridgewood. If the deficiencies are corrected within this period, the fine should be rescinded.

IT IS THEREFORE ORDERED that:

1. All deficiencies in the Ridgewood Subdivision Sewer Plant listed in Appendix A shall be corrected as soon as possible. Mr. Marston shall furnish the Commission with a monthly report on the progress of these corrections.

2. A Kentucky-certified wastewater system operator should be employed to operate Ridgewood as soon as possible. Mr. Marston shall report the employment of such an operator to the Commission.

3. Mr. Marston shall immediately notify the Commission of his current mailing address and any future changes of address.

4. A fine of \$500 be assessed against Mr. Jesse B. Marston. This fine shall become final, due and payable 6 months from the date of this Order. Said fine shall be made payable to the Treasurer, Commonwealth of Kentucky, and mailed to Office of General Counsel, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602. If this Commission finds within 6 months of this Order that all deficiencies of Ridgewood have been corrected, this fine shall be rescinded.

Done at Frankfort, Kentucky, this 9th day of December, 1987.

PUBLIC SERVICE COMMISSION

Richard D. Hemeryk
Chairman

Dr. Robert M. Davis
did not participate.
Vice Chairman

Spencer N. Williams
Commissioner

ATTEST:

Executive Director

APPENDIX A

EXISTING DEFICIENCIES IN
RIDGEWOOD SUBDIVISION SEWER PLANT

1. Large gap in the fence surrounding plant.
2. Water surrounds the plant's aeration tank and clarifier.
3. Nonfunctioning skimmers and diffusers.
4. Severe erosion around the plant's manhole.
5. Opening to digester needs a gate which opens only when sludge is to be wasted.