

April 21, 2009

Mr. Jeff R. Derouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

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PUBLIC SERVICE  
COMMISSION

Re: Request for a stay in 2009-00096

Dear Mr. Derouen:

We request that the Public Service Commission issue an order staying all construction activities of Kentucky American Water (KAW) in its water treatment plant/pipeline project until a resolution of Case No. 2009-00096 is achieved.

Since your agency issued its 4-9-09 order on this case, KAW has continued to work on the project and has continued to violate the conditions of its permits.

On April 14, 2009, KAW President Nick Rowe testified before the commission that KAW was ahead of schedule in its work on the treatment plant/pipeline. Their expediency is in large part due to the fact that the company routinely violates its time curfew of 9 a.m. – 3:30 p.m. as stipulated by the permit of encroachment (allowing work within the ROW) granted by the Transportation Cabinet.

KAW's rush to complete its project ahead of any court ruling has led to a willful disregard of the permit limitations placed on the company to protect the public and the environment.

We are concerned that without a stay, KAW will complete installation of its pipeline or install so much of its pipeline that any decision that could potentially change the project would be rendered meaningless by the reality on the ground.

This would represent an irretrievable commitment of resources that would jeopardize our ability to have a fair hearing in this case.

Please issue a stay on this project until Case No. 2009-00096 is resolved.

Enclosed is an updated list of KAW violations in this project. This list is a working document that continues to change as additions are made. We request leave to submit updated versions of this document as this case progresses.

Sincerely,



Chris Schimmoeller

cc: Kentucky American Water Company  
Tom FitzGerald

<b>date</b>	<b>observer</b>	<b>incident</b>
17-Jun	Marcella Wiley	Semi truck blocked 1262 near pump station site for approximately 30 minutes while attempting to turn around. No flagmen. Levelled a traffic sign.
10-Jul	Marcella Wiley	Surveying equipment left in road after dark on hill on 1262.
14-Aug	Jim McWilliams	Dangerous and unprotected huge pit left adjacent to US 127 -email to District 5.
14-Aug	Jim McWilliams	Large concrete or gravel trucks routinely parked partly on the shoulder and partly on the highway without any flagmen to warn of the danger. Mr. Poe indicated that they did not have anyone to enforce contractor violations because that position was vacant. - email to District 5.
5-Sep	Jim McWilliams	construction worker working well after dark 10:50pm near the county line on US 127
10-Sep	Jim McWilliams	A mile south of the Owen/Franklin County line on US 127. Two open "bore pits" left adjacent to the shoulder on either side of the road, similar to the pit shown in the attached pictures. --email to Mike Hancock and Matt Bullock
10-Sep	Gloria Toftness	Work noise after dark. --email to Mike Hancock and Matt Bullock
10-Sep	Jim McWilliams	KAW contractors working past 11:00 PM during the week and late into the evening on Saturdays. --email to Mike Hancock and Matt Bullock
11-Sep	Jim McWilliams	Contractor dumping waste on the Mucci farm adjacent to the KAW property. The dump site is a low-lying area adjacent to the road, an area that fills-up during rain storms.
11-Sep	Dara Carlisle	open "bore pit" in Swallowfield.
19-Sep	Lee Troutwine	Trees cleared on private property apparently beyond ROW boundary along 1262.
22-Sep	Jim McWilliams	road closures announced to begin as the trencher moves off of US127 and onto 2919 --email to Matt Bullock
25-Sep	Kay Harker	KAW trespass and clear private property without the landowner's permission.
1-Oct	Andy McDonald	KAW has heavy equipment on the shoulder of US127. No flagmen. A backhoe does a u-turn across both lanes.
7-Oct	Beulah Bowman	KAW surveyors place ROW stakes near her front door, over 20 feet from the center of the road SR1262
12-Oct	Tim Peiffer	No flagman to direct traffic. Turned onto 2919 detour gravel road through field and almost hit barbed wire barricade. Had to back up onto 2919.

13-Oct	Jim McWilliams	Company operating heavy equipment in roadway ROW without flagmen after dusk on Indian Gap/2919.
14-Oct	Jim McWilliams	In an effort to NOT close the state roads, KAW re-routing Indian Gap/2919 motorists through cow pastures and tobacco fields.
21-Oct	Jim McWilliams	heavy equipment working in ROW after sunset
22-Oct	Jim McWilliams	heavy equipment working in ROW before sunrise
28-Oct	David and Angela Riddle	KAW cleared trees on private property apparently beyond ROW boundary (5645 Rocky Branch Road)
9-Nov	Andy McDonald	9:00am back hoe backed into the road then drove off. No flagmen. Traffic had to stop to avoid accident.
10-Nov	Chris Schimmoeller	8:40am KAW truck parked in 1707 just over a hill. No flagmen.
10-Nov	Chris Schimmoeller	4:15pm Rough gravel in 1707 where pipeline has just been laid. No flagmen.
14-Nov	Mark Schimmoeller	Semi truck carrying pipe traveled in center of Sullivan Lane for miles and then blocked 1707 with no warning and no flagmen.
17-Nov	Laurie Schimmoeller	Encounters large equipment on roadway. No flagmen. Difficult and dangerous to negotiate.
3-Dec	Jim McWilliams	Heavy equipment unloading, blocking 1262. No flagmen.
4-Dec	Charles Schimmoeller	Heavy equipment sweeping road near 1262 bridge. Dust impairs visibility. No flagmen/warning.
4-Dec	Laurie Schimmoeller	Heavy equipment in road and on side of 1262 near Peaks Mill. No flagmen.
5-Dec	Jim McWilliams	Trencher does not stop operating while traffic passes in very close proximity.(1262) Dust and debris thrown onto vehicle.
8-Dec	Jim McWilliams	No flagmen. Heavy equipment operating in close proximity to road (1262).
8-Dec	Lee Troutwine	KAW crew working in ROW after 4:30 on 1262.
8-Dec	Laurie Schimmoeller	Heavy equipment blocking one lane of 1262 - no flagman.
9-Dec	Marcella Wiley	Heavy equipment operating in 1262 right of way. No flagman.
9-Dec	Karen Carey, Jane Bogardus, Linda Kubala	5:45pm it was very dark and raining. KAW crew were operating 2 large pieces of heavy equipment, one with no lights, no flagmen, no signs, very rough road with large pot holes (southbound on 1262 just past the old Peaks Mill Elementary)
10-Dec	Pat Whitley	Large chunks of clay obstructing roadway on 1262 near pump station site.
11-Dec	Heather Housman	5:45pm Trencher operating in ROW at dusk on 1262.
11-Dec	Dara Carlisle	4:20pm on 127 next to treatment plant, flagman stopping cars and no signs indicating such.
11-Dec	Debbie Cooper	7:30pm - one lane closed - trencher operating - no flagman to warn oncoming traffic to stop.
15-Dec	Chris Schimmoeller	Bare ground/no straw on Camp Pleasant construction area.

15-Dec	Laurie Schimmoeller	Semi trucks carrying oversized loads of pipe traveling down middle of Sullivan Lane (1262) without accompanying caution vehicles.
18-Dec	Chris Schimmoeller	Heavy equipment entering and exiting 1707 from temporary access road. No signs or flagmen.
18-Dec	Chris Schimmoeller	Slow-moving street sweeper operating on 1262 without signs or flagmen
18-Dec	Chris Schimmoeller	One lane of traffic closed at 4:30PM while heavy equipment continued to operate in violation of permit curfew of 3:30PM
20-Dec	Chris Schimmoeller	No sod, silt fence or straw on disturbed ground at Sulphur Lick creek crossing.
22-Dec	Heather Housman	1262 ROW: two large pits adjacent to the road without barricade to protect traveling public.
24-Dec	Jim McWilliams	Road floods because of damaged drainage ditch on Indian Gap (1707).
24-Dec	Connie Lemley	9:00 pm SR1262 no signage about the abrupt shift from paved roadway to rough gravel.
26-Dec	Pat Kennedy & Dara Carlisle	KAW crew operating heavy equipment in the road (1262) with no flagman.
30-Dec	Chris Schimmoeller	1262 ROW two large pits adjacent to the road, still no barricade. Backhoe in the road near Sulphur Lick, no flagman.
5-Jan	Tim Peiffer	No flagmen. Heavy equipment operating in close proximity to road (1262).
6-Jan	Chris Schimmoeller	Two five-foot pits still adjacent to the roadway. New 20 foot long pit immediately adjacent to road without any barricade or warnings.
6-Jan	Chris Schimmoeller	Sulphur lick crossing still without straw or any type of erosion control.
6-Jan	Betty Troutwine	On-going work in 1262 ROW with no ditches in place to direct water away from road in the event of rain.
16-Jan	Jennifer Lindberg	3:30PM On Ironworks Pike near I-75: huge bulldozer in road with oversized load; no flagmen or caution signs.
16-Jan	Jennifer Lindberg	5:00PM Trucks and heavy equipment entering and exiting Ironworks Pike near I-75 without flagmen.
17-Jan	Joel Dufour	11:30AM 1262/Rocky Branch. One lane road. Heavy equipment operator continued to move bucket while vehicle passed.
2-Feb	Laurie Schimmoeller	One lane of traffic closed on 1262 outside of the permit's 9am - 3:30pm allowed hours of operation.
2-Feb	Dara Carlisle	Silt fence is down in several places just past Peaks Mill going towards Frankfort on 1262. It also appears that there is no silt fence just before Sulphur Lick near the creek.
2-Feb	Dara Carlisle	SR1262 near Sulphur Lick, two tractor trailers were stopped in the road without signs or flagmen.

6-Feb	Karen Carey and Jane Bogardus	7:45am Huge backhoe in the road blocking traffic on 1262 near Peaks Mill. No flagman. 4:40pm KAW working past 3:30 curfew with one lane of 1262 closed and only one flagman to operate both ends on the lane closure.
23-Feb	Chris Schimmoeller	
24-Feb	Chris Schimmoeller	5:40pm One lane of 1262 closed in violation of 3:30 curfew.
25-Feb	Pat Whitley	Important drainage pipe on 1262 blocked by booster pump construction.
27-Feb	Chris Schimmoeller	5:10pm Truck parked in one lane of 1262/Rocky Branch. No flagman.
27-Feb	Bob Isaacs	Trencher created dangerous driving conditions just downhill from Lucas Lane intersection on 1262. Soft gravel/ lack of signage going to lead to an accident.
2-Mar	Andy McDonald	Gravel truck pulled into lane of traffic after traffic had been directed to travel on by the flagman.
4-Mar	Heather Housman	8:55am 1262 (Rocky Branch) Heavy equipment pulling onto roadway without any warning. Construction truck pulled into traffic without notice. Backhoe driving in middle of road toward oncoming traffic.
5-Mar	Jim McWilliams	Oversized trucks traveling on 1262 and 2919 without proper permits.
12-Mar	Sarah Hunt	6:00pm Vehicle parked on 1262 blocking one lane of traffic; no flagman.
14-Mar	Andy McDonald	Heavy equipment operating on Rocky Branch in steady rain. Two construction vehicles were stopped blocking both lanes of traffic.
14-Mar	Joel Dufour	11:00am Backhoe operating and one lane of traffic closed in the steady rain on Rocky Branch in violation of the ROW permit.
15-Mar	Marcella Whiley	Large amount of mud/clay in roadway in front of pumping station construction site on 1262 creating a driving hazard.
17-Mar	Connie Lemley	4:30pm Bulldozer operating in the roadway on Rocky Branch (1262). Personal vehicle of a construction worker parked so that it was partially blocking one lane of traffic.
19-Mar	Chris Schimmoeller	A total of five flowing streams running into Rocky Branch between Switzer and Lucas lane on 1262 have been bulldozed through; no erosion control in place, no silt fence in one area. One stream had a huge pile of dirt dumped in it, blocking water flow.
21-Mar	State Representative Carl Rollins	Flagmen waved vehicle through on 1262/Rocky Branch, but heavy equipment continued to operate, making safe passage impossible. Turned around.
21-Mar	Rex Hunt	Saturday 2:40pm Lanes blocked by heavy equipment operating on the ROW with flagmen present (DOT inspector also present).

23-Mar	Janice Tomes	5:00pm Semi-truck loaded with a backhoe, backed out of the booster pump station construction site onto SR1262 nearly colliding with an oncoming vehicle. No flagmen.
25-Mar	Dara Carlisle	8:40am A semi-truck backed across both lanes of traffic before traveling on US 127 at the pumping station construction site. No flagmen.
1-Apr	Lois Barnes	Two KAW cars parked in driveway all day blocking access (1262).
2-Apr	Marcella Wiley	Semi-tractor trailer blocking road (1262) with no flagmen. 3 separate dangerous incidents along the pipeline worksite: 1) heavy equipment operating dangerously close to passing traffic (1262/Rocky Branch); 2) Semi/trencher/trucks blocking 1262/Rocky Branch near Switzer; no flagman; 3) trucks parked on blind curve on Jones lane; no flagmen
2-Apr	Trina Peiffer	One lane of traffic closed; KAW worked until 7:45pm on 1262 near Switzer intersection
7-Apr	Bea Hutchison	Large debris in roadway (1262) with no flagmen.
9-Apr	Steve Summers	Personal vehicles of KAW employees blocking driveway again.
10-Apr	Lois Barnes	One lane of Rocky Branch closed. Rainy day.
10-Apr	Judy Isaacs	Insufficient culvert put under driveway to replace the one ruined by construction.
13-Apr	Bea Hutchison	KAW works until 8pm near Switzer bridge with one lane closed.
14-Apr	Pat Whitley	KAW working from 6:30am until dark within the ROW.
14-Apr	Penny Greathouse	1:35pm Cane Run Road ext. in Scott county. A large truck parked partially blocking lane with no signs or flagmen. Rain.
15-Apr	Marcella Wiley	Phone lines cut by trencher. KAW patches it and fails to tell AT&T. Water line broken.
15-Apr	Pat Whitley	KAW working from 6:30am until dark within the ROW.
15-Apr	Marcella Wiley	6:50pm Lane blocked by sweeper. No flagmen.
16-Apr	Marcella Wiley	Phone lines cut again. Water lines broken again, but residents do not get boil water advisory.
17-Apr	Marcella Wiley	8:50am Both lanes of traffic blocked by vehicles parked in 1262 in two different places. No flagmen.
18-Apr	Fran Pinkston	Construction crew working on a Saturday starting at 7am.

18-Apr      Marcella Wiley      Construction crew working on a Saturday starting at 7am.