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JAN 28 2010

PUBLIC SERVICE
COMMISSION
DYE L. HAZELRIGG (1881-1970)
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FRANKFORT, KENTUCKY 40602-0676

JOHN B. BAUGHMAN
ROBERT C. MOORE
CLAYTON B. PATRICK

January 28, 2010

Via Hand-Delivery

Mr. Jeff R. Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort, Kentucky 40602-0615

Re: Application of Big Bear Wastewater, Inc. for Adjustment in Rates
Case No. 2009-00171

Dear Mr. Derouen:

Please find enclosed for filing in the above referenced case an original and five (5) copies of the Dens Condominium Association's Comments/Objections to the Staff Report and Request for Formal Hearing. Please call me if you have any questions concerning this matter, and thank you for your attention to same.

Respectfully submitted,



Robert C. Moore

RCM/snw
Enclosure

RECEIVED

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

JAN 28 2010

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

APPLICATION OF BIG BEAR)	
WASTEWATER, INC. FOR AN)	
ADJUSTMENT OF RATES)	CASE NO. 2009-00171
)	
)	

**THE DENS CONDOMINIUM ASSOCIATION’S COMMENTS/OBJECTIONS
TO THE STAFF REPORT AND REQUEST FOR FORMAL HEARING**

The Dens Condominium Association, by counsel, hereby submits its
Comments/Objections to the Staff Report, which was issued on January 22, 2010, and its
Request for Formal Hearing.

(a) Normalized Revenue: The Staff Report incorrectly lists total revenue as \$31,463. However, the 2008 Financial Report submitted by Big Bear lists its total revenue as \$34,176. Furthermore, the Staff Report states that it reduced the total revenue for 2008 by \$2,035 based on its statement that an extra payment was recorded for 2008. The Application for Rate Adjustment (“Application”) submitted by Big Bear Wastewater, Inc. (“Big Bear Wastewater”), does not reflect that an extra payment was received in 2008, nor does the information provided by Big Bear Wastewater in response to the Data Requests reflect that an extra payment was made in 2008. Accordingly, the record of this case does not reflect that an extra payment was made to Big Bear Wastewater in 2008, and the total revenue to be taken into consideration in this rate case should be \$34,176, which is the amount reflected in Big Bear Wastewater’s 2008 Annual Report.

(b) Owner/Manager Fees: The Staff Report correctly determined that \$3,600 is the property Owner/Manager fee to be paid to Mr. Meier. Contrary to Big Bear Wastewater’s Answer to Commission Data Request 1(b), stating that managing Big Bear Wastewater is not an

hourly job, but a full-time responsibility, Big Bear Wastewater has indicated in its Annual Reports for 2005-2008 that Big Bear Wastewater has no full time employees and only has three part time employees. Accordingly, Mr. Meier only works part time for Big Bear Wastewater. The Staff Report reflects that Big Bear Wastewater referenced Case No. 2007-00436 in attempting to justify its requested fee of \$6,000. However, contrary to the facts in Case No. 2007-00436, Mr. Meier does not have substantial experience in operating, maintaining and constructing wastewater treatment plants and is not a professional engineer. (See Case No. 2007-00436). Furthermore, the wastewater treatment plant involved in Case No. 2007-00436 had a daily capacity of 85,000 GPD with 241 customers as compared to Big Bear WWTP's daily capacity of 35,000 with 96 customers. Therefore, the \$3,600 recommended in the Staff Report is the appropriate Owner/Manager fee.

(c) **Sludge Hauling Expense:** The sludge hauling expense should remain at the 2007 expense of \$1,992.67, as set forth in the Appendix A to the Staff Report, page 1. The Annual Reports for 2005, 2006 and 2007 reflect an average sludge hauling expense of \$1,800. Additionally, there is no explanation for the increase in the sludge hauling expense. Furthermore, there is no documentation in the record consisting of the Application and the Answers to the Data Requests substantiating that the sludge hauling is limited to sludge hauled from the Big Bear WWTP and not the septic systems located on site.¹ Staff should require Big Bear to provide information confirming that any invoices for sludge hauling are limited to sludge from the WWTP.

¹ Big Bear Wastewater states in its KPDES Application submitted in 2008 to the Kentucky Division of Water that all water used at the facility flowed through the treatment plant. (See Attachment A). However, in its answers to the Dens' Data Requests, Big Bear states that a number of the facilities are not served by the WWTP. Staff should require Big Bear to provide information clarifying this discrepancy.

(d) Chemicals Expense: The Staff Report states that the 2007 Annual Report reflects chemical expenses of \$2,081, which expenses were recorded in Maintenance of Collection Sewer System Expenses. Staff should review the chemical expenses for 2005 through 2007 to ensure that the amount of this expense is correct, taking into consideration prior years' use. Additionally, the Application and case file does not contain documentation substantiating the chemical expense for 2007, and Staff should require Big Bear Wastewater to provide this documentation.

(f) Routine Maintenance Expense: The Staff Report recommends a routine maintenance fee of \$13,200 based on the information provided in the Application. The Staff failed to note that the information provide by Big Bear Wastewater reflected that the maintenance fee for the Airview wastewater treatment plant with a design capacity of 35,000 GPD, which is the design capacity of the Big Bear WWTP, is \$8,400. Accordingly, the routine maintenance fee of Big Bear should be limited to \$8,400. This is particularly true where the routine maintenance fee for 2008 was \$4,801 (consisting of \$3,226 for collection system labor and \$1,575 for maintenance of collection sewer system). The increase in routine maintenance fee from \$4,801 to \$8,400 reflects and increase of seventy-five percent (75%).

Furthermore, Big Bear Wastewater should be required to provide a signed copy of any contract for routine maintenance of the WWTP in order to substantiate the amount paid for this service and to ensure that it does not include service of the septic systems or any other system on the Big Bear Site. In the event that Big Bear Wastewater cannot provide a signed copy of the contract, any Order entered by the Commission in this case should require the filing of a signed contract.

(g) Administration and General Salaries: The Staff Report kept this expense at \$2,700. This expense should not be increased as Big Bear Wastewater did not submit

information justifying any increase and it is increasing its routine maintenance fee substantially.

(h) Office Supplies and Expense: The Staff Report stated that the information submitted by Big Bear Wastewater did not justify an increase to \$200. Accordingly, this expense should be limited to \$50 per year. Furthermore, the Table at page One of the Appendix to the Staff Report reflects an Office Supplies and Expense of \$7,363. This number is obviously an error and requires correction.

(i) Chemical testing: The Staff Report states that Big Bear Wastewater pays \$126 per month to McCoy and McCoy for water testing. Staff should require Big Bear to provide documentation of this expense, as there is no documentation included in the Application or the Answers to the Data Requests and is not part of the record in this case.

(j) Insurance: The Staff Report increased the insurance cost by \$239 for a total cost of \$1,206. However, there is no documentation in the record of this case reflecting the insurance policy(s) or the cost of same. Furthermore, the increase in the insurance cost was attributed to workers compensation. Due to the fact that the individual performing the maintenance on the Big Bear WWTP is an independent contractor, there should be a reduction in workers compensation insurance costs, not an increase. Additionally, the insurance policy should be reviewed to ensure that it only insures risks associated with the Big Bear WWTP and not other Big Bear properties. Finally, it must be noted that there was no insurance cost reflected in the annual reports for 2006 and 2007, and the insurance expense reflected in the 2005 Annual Report was \$692. Accordingly, the insurance expense should be limited to the average of the 2005 insurance expense of \$692 and the 2008 insurance expense of \$967, for a total insurance cost of \$830.

(k) Overhead expense: The Staff Report reflects an Overhead expense of \$6,257, with no explanation of same. Big Bear failed to include any information or documents

substantiating an overhead expense in this or in any amount, and it should therefore be removed from Big Bear Wastewater's expenses. At the very least, the Commission Staff should be required to explain or describe the items included in overhead expense and the information or documents substantiating same.

(l) Miscellaneous: The Staff Report included a miscellaneous expense of \$461, with no explanation of same. Big Bear Wastewater failed to include any information or documents substantiating a miscellaneous expense in this or in any amount, and it should therefore be removed from Big Bear Wastewater's expenses. At the very least, the Commission Staff should be required to explain or describe the items included in overhead expense and the information or documents substantiating same.

(m) Allocation of Expenses: Appendix B to the Staff Report proposes to divide the total Revenue Requirement by less than the total number of customers. For the reasons set forth above, The Dens objects to a number of increases in the expenses set forth in Appendix A to the Staff Report. The Dens further objects to the allocation of the Revenue Requirement as set forth in Appendix B to the Staff Report. The final Revenue Requirement for the Big Bear WWTP should be divided by the total number of customers on an annual basis. Big Bear Wastewater asserts that it should only be charged for 8 months of the operation of the WWTP because its usage of the WWTP is minimal during 4 months of the year. However, the same is true of all of the users of the WWTP. For example, the vast majority of the owners of the condominiums in The Dens only use their units from April through October of each year. The same is true of the owners of the Treetops Condominiums. However, they require the services of the WWTP when they are present on site from April through October, just like the units of the Big Bear Resort require the services of the WWTP for eight months out of each year. Accordingly, the Revenue Requirement should be evenly spread over all 96 units for the entire year rather than for just 8

months out of the year.²

While the Commission does not consider the actual amount of water used by a unit in determining the rate to be charged by the Big Bear WWTP, the following calculations of water usage further establish that the monthly fee for sewer service should be based on the number of units that receive service instead of allocating it based upon claimed monthly usage. The Sewer Plant Statistics For Big Bear Wastewater for the years 2004 through 2008 on the Commission website shows the following total gallons received during the year by the WWTP. The total gallons used by The Dens is also set forth below:

	Dens Usage	Received by Big Bear WWTP	Percentage
2004	328,300	2,737,648	11.99%
2005	281,700	2,737,000	10.29%
2006	684,100	3,150,000	21.72%
2007	357,100	2,494,968	14.31%
2008	513,500	2,494,968	20.58% ³

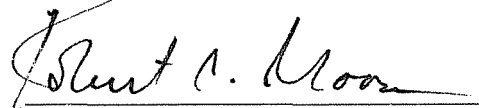
If all of the units owned by Big Bear that are served by the WWTP are not included in calculating the monthly rate for sewer service, the units in The Dens are required to pay approximately 31.27 percent of the Revenue Requirement when these units only use an average of 15.78 percent of the water. This calculation substantiates that all 96 of the units should be included in calculating the monthly payment due for sewer service.

²Big Bear Wastewater states in its 2008 KPDES Application that all water used at the facility flowed through the treatment plant. (See Attachment A). However, in its answers to the Dens' Data Requests, Big Bear Wastewater states that the restaurant at the site is not served by the WWTP. (See Attachment B for a photograph of the restaurant). Staff should require Big Bear to provide information clarifying this discrepancy.

³ While the amount of water received by the Big Bear WWTP was allegedly exactly the same in 2004 and 2005, and again in 2007 and 2008, the percentage of water used by The Dens increased in 2006 and 2008 due to leaks in the water line serving The Dens. The leaks have been repaired. Please note that water lost due to the leaks would not have been treated at the WWTP.

(n) Brief Summary of Testimony and Request for Formal Hearing: The Dens will present the testimony of Richard Schien and Don Zimmer to establish the water usage of The Dens and the water received by the Big Bear WWTP, and the usage of the units at Big Bear. To the extent necessary, The Dens will also present testimony and documents reflecting and concerning the revenue received by Big Bear and the expenses incurred by Big Bear, including but not limited to expenses concerning sludge hauling, chemicals, maintenance, office supplies, insurance, overhead and miscellaneous items. The Dens hereby requests a formal hearing in this matter.

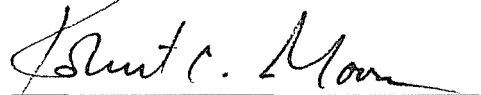
Respectfully Submitted,



Robert C. Moore
Hazelrigg & Cox, LLP
415 West Main Street, 1st Floor
P.O. Box 676
Frankfort, Kentucky 40602-0676
Counsel for The Dens Condominium
Association

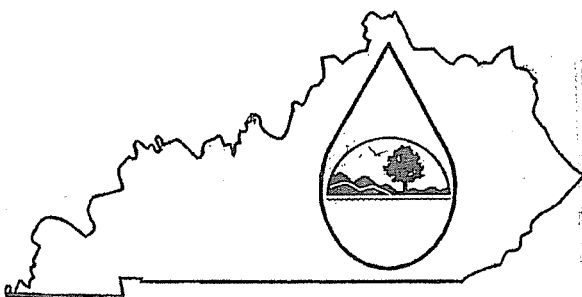
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class mail, postage prepaid, on Jeff R. Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602-0615, David Edward Spenard, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204, James R. Goff, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602-0615, and Deborah T. Eversole, Stoll Keenon Ogden, PLLC, 2000 PNC Plaza, 500 West Jefferson Street, Louisville, Kentucky 40202, on this the 28th day of JANUARY 2010.



Robert C. Moore

KPDES FORM SC



KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

MAR 31 2008

PERMIT APPLICATION

A complete application consists of this form and Form 1.
For additional information, contact: KPDES Branch, (502) 564-3410.

NAME OF FACILITY: <i>Big Bear Wastewater Inc</i>		AGENCY USE							
FACILITY DISCHARGE FREQUENCY									
A. Do discharge(s) occur all year? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>									
(Complete Item IX for intermittent discharges.)									
How many days per week?		<i>7</i>							
II. A. Give the basis of design for sizing of the wastewater facility (see instructions):									
<i># of rental units 8 hours, currently 25 cottages plus 5 resort building, 27 Dens Condos & 24 Tree-top Cabins</i>									
B. If new discharger, indicate anticipated discharge date:									
C. Indicate the design capacity of the treatment system:					<i>.035</i> MGD				

III. Outfall Location (see instructions)

Outfall (list)	LATITUDE			LONGITUDE			RECEIVING WATER (name)
	Degrees	Minutes	Seconds	Degrees	Minutes	Seconds	
TP	36	53	7 48	88	11	46 4	Ky Lake <i>beal creek</i>

Method used to obtain latitude/longitude (i.e. GPS unit, USGS topographic map coordinates, etc.) *LORAN*

IV. FLOWS, SOURCES OF POLLUTION, AND TREATMENT TECHNOLOGIES (see instructions)
 If wastewater other than domestic or sanitary is listed, complete page 4 in addition to page 1 and 2.

OUTFALL NO. (list)	OPERATION(S) CONTRIBUTING FLOW		TREATMENT	
	Operation (list)	Avg/Design Flow (include units)	List treatment components	List Codes from Table SC-1
1	Resort Domestic Sewage	8000/gal/day	activated sewage	3A 2F 5Q 10 1L

V. Check the type(s) of wastewater discharged.

- Domestic (60% or more sanitary sewage)
- Oil field waste
- Noncontact cooling water
- Other (list):

VI. Does all water used at facility (except for human consumption) flow to a treatment plant? Yes No

VII. Discharge to other than surface waters. Check appropriate location:

- Publicly-owned lake or impoundment Name of lake:
- Publicly-owned treatment works (POTW). Name of POTW:
- Land application of Effluent
- Surface injection (Check term and identify on map) lateral field; sinkhole; sinking stream; deep well
- Closed Circuit (Check appropriate term) Holding tank; Mechanical evaporation; Waste impoundment

VIII. Check the metals present in the discharge if applicable and indicate the quantity discharged per year. (Indicate units).

<input type="checkbox"/>	Antimony	None	<input type="checkbox"/>	Copper	None	<input type="checkbox"/>	Silver	None
<input type="checkbox"/>	Arsenic	"	<input type="checkbox"/>	Lead	"	<input type="checkbox"/>	Thallium	"
<input type="checkbox"/>	Beryllium	"	<input type="checkbox"/>	Mercury	"	<input type="checkbox"/>	Zinc	"
<input type="checkbox"/>	Cadmium	"	<input type="checkbox"/>	Nickel	"	<input type="checkbox"/>		
<input type="checkbox"/>	Chromium	"	<input type="checkbox"/>	Selenium	"	<input type="checkbox"/>		

IX. INTERMITTENT DISCHARGES (Complete this section for intermittent discharges.)

A. Number of bypass points: _____ (If bypass points are indicated, information below must be completed for each bypass.)

Check when bypass occurs:	<input type="checkbox"/> Wet Weather	<input type="checkbox"/> Dry Weather
Give the number of bypass incidents	_____ per year	_____ per year
Give average duration of bypass	_____ hours	_____ hours
Give average volume per incident	_____ 1,000 gallons	_____ 1,000 gallons
Give reason why bypass occurs:		

B. Number of Overflow Points: _____ (If discharge is from an overflow point, the information below must be completed.)

Check when overflow occurs:	<input type="checkbox"/> Wet Weather	<input type="checkbox"/> Dry Weather
Give the number of overflow incidents:	_____ per year	_____ per year
Give average duration of overflow:	_____ hours	_____ hours
Give average volume per incident:	_____ 1,000 gallons	_____ 1,000 gallons

C. Number of seasonal discharge points	
Give the number of times discharge occurs per year	
Give the average volume per discharge occurrence	(1,000 gallons)
Give the average duration of each discharge	(days)
List month(s) when the discharge occurs	

X. AREA SERVED (see instructions)

NAME	ACTUAL POPULATION SERVED
<i>Bra Bear Ranch Dvc</i>	<i>25 cottages & 5 buildings, 15 Full</i>
<i>Treetops Condo Assoc</i>	<i>6 buildings - 24 units</i>
<i>Deno Condo Assoc.</i>	<i>7 buildings 27 units</i>
TOTAL POPULATION SERVED	88

*Pompano Beach
Hastings
CA*

(PLEASE COMPLETE THIS PAGE IF OTHER THAN DOMESTIC WASTEWATER IS DISCHARGED)

XI. COOLING WATER ADDITIVES AND THEIR COMPOSITIONS		
Additive	Composition	Concentration (mg/l)

XII. EFFLUENT CHARACTERISTICS

A. Indicate results of analysis for pollutants listed below.

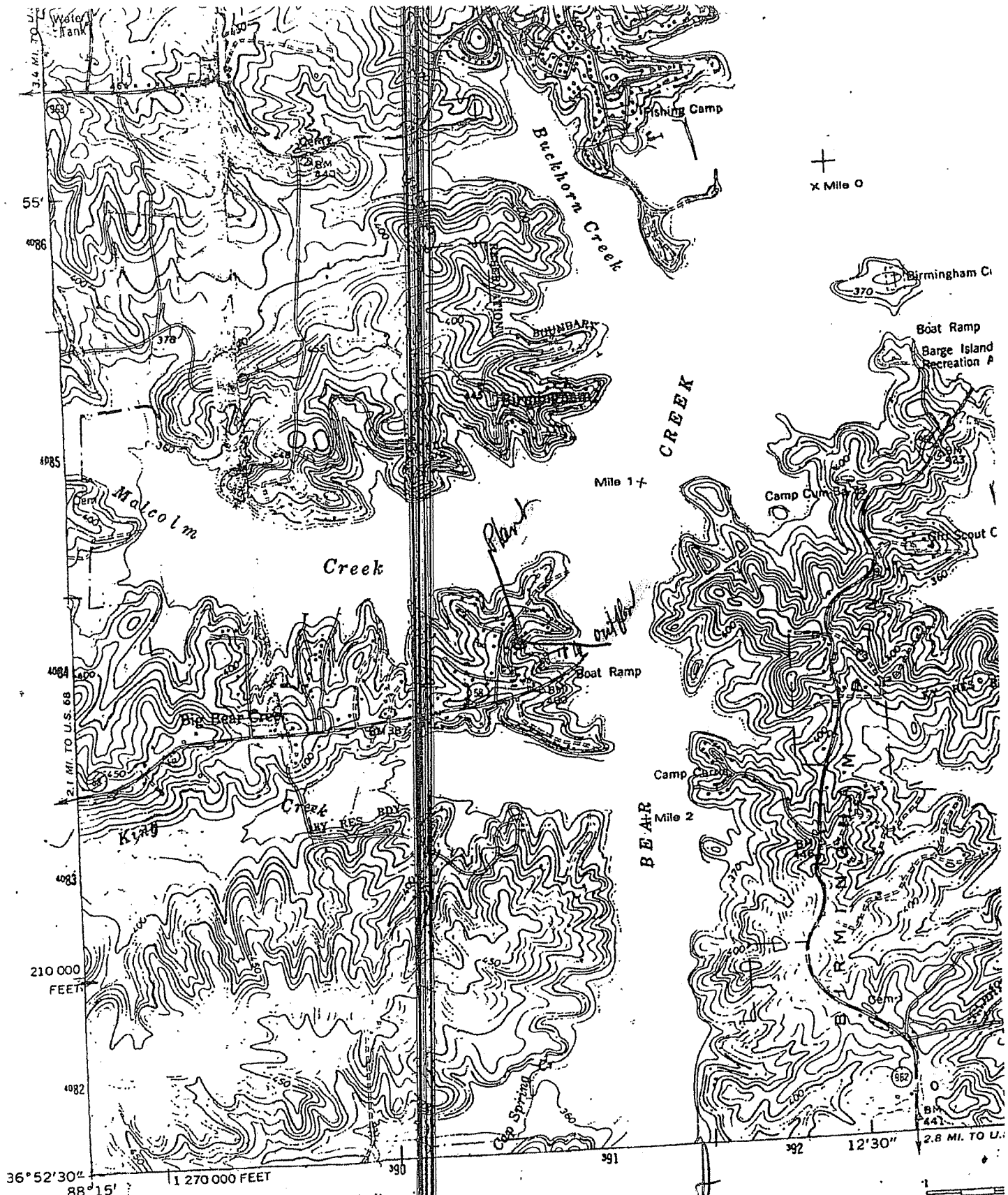
POLLUTANT/PARAMETER	MAX DAILY VALUE	AVG DAILY VALUE	NUMBER OF SAMPLES
BOD ₅	17	4.916667	12
TOTAL SUSPENDED SOLIDS	15	4.58333	12
FECAL COLIFORM	600	171.4167	12
TOTAL RESIDUAL CHLORINE	13	1.058333	12
OIL AND GREASE	request waiver	_____	_____
CHEMICAL OXYGEN DEMAND	request waiver	_____	_____
TOTAL ORGANIC CARBON	request waiver	_____	_____
AMMONIA	4	1.416667	12
DISCHARGE FLOW	.0009	.006	12
PH	7.4	7.158333	12
TEMPERATURE (WINTER)	request waiver	_____	_____
TEMPERATURE (SUMMER)	request waiver	_____	_____

B. Frequency and duration of flow: *continuous flow*

XIII. CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME AND OFFICIAL TITLE (type or print): <i>M. Janet Calderrey - Manager</i>	TELEPHONE NUMBER (area code and number): <i>270 354 6436</i>
SIGNATURE <i>[Signature]</i>	DATE <i>3/26/08</i>

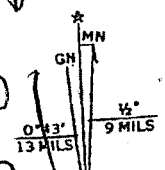


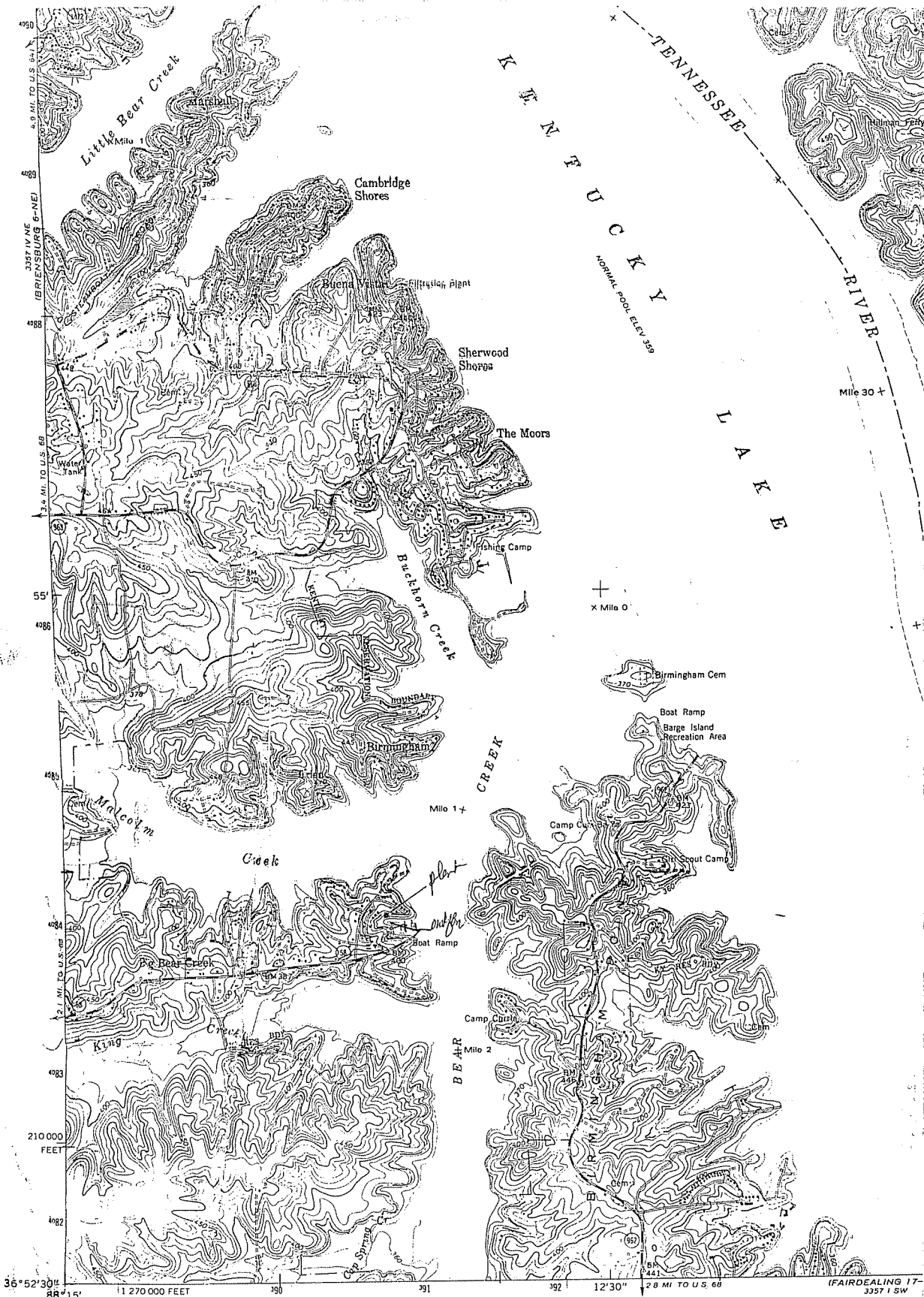
(HARDIN 6-SE)
3357 IV SE

Mapped by the Tennessee Valley Authority
 Edited and published by the Geological Survey
 Revised by the Geological Survey in cooperation
 with Kentucky Geological Survey
 Control by USGS, NOS/NOAA, USCE, and TVA

Topography by planetable surveys 1938 and
 photogrammetric methods from aerial photographs taken 1938
 Revised from aerial photographs taken 1966. Field checked 1967

*2nd time
and this
map*





WADSWORTH 6-567
337 IV SE

Mapped by the Tennessee Valley Authority
 Edited and published by the Geological Survey
 Revised by the Geological Survey in cooperation
 with Kentucky Geological Survey
 Control by USGS, NOS/NDAA, USCE, and TVA
 Topography by plane-table surveys 1938 and
 photogrammetric methods from aerial photographs taken 1938
 Revised from aerial photographs taken 1966. Field checked 1967

Polyconic projection 10,000-foot grid ticks based on
 Kentucky coordinate system; south zone
 1000-meter Universal Transverse Mercator grid ticks
 zone 18, shown in blue. 1927 North American Datum
 To place on the predicted North American Datum 1983
 move the projection lines 5 meters south and
 4 meters east as shown by dashed corner ticks

UTM GRID AND 1987 MAGNETIC NORTH
 DECLINATION AT CENTER OF SHEET

0° 43' 13 MILS
 1/2° 9 MILS

Fine red dashed lines indicate selected fence and field
 lines where generally visible on aerial photographs. This
 information is un-checked

SCALE 1:24 000

1000 0 1000 2000 3000

1 5 0

CONTOUR INTERVAL
 NATIONAL GEODETIC VERTICAL

THIS MAP COMPLIES WITH NATIONAL MAP
 FOR SALE BY U.S. GEOLOGICAL SURVEY,
 DENVER, COLORADO 80225, OR REGIONAL OFFICE,
 KENTUCKY GEOLOGICAL SURVEY, LEXINGTON,
 KENTUCKY DEPARTMENT OF COMMERCE,
 AND U.S. TENNESSEE VALLEY AUTHORITY,
 CHATTANOOGA, TENN. 37401 OR KENTUCKY
 A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND 5



ATTACHMENT B

