



STEVEN L. BESHEAR
GOVERNOR

LEONARD K. PETERS
SECRETARY

ENERGY AND ENVIRONMENT CABINET

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water
9116 Leesgate Rd
Louisville, KY 40222-5084
www.kentucky.gov

March 5, 2014

Certified No. 7010 1060 0000 9371 7279
Return Receipt Requested

Mr. Nathan Smith, Owner
467 Erlanger Rd Ste 200
Erlanger, KY 41018

Re: Notice of Violation
AI ID: 2221
AI Name: Ashley Point MHP
Activity ID: ENV20140001
Jefferson County, KY

Dear Mr. Smith:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at the Ashley Point mobile home park on 10/25/13. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

In addition to the written response plan, you should submit the stream cleaning activities including the actual bill and receipt from the septic company used to remove the raw sewage from the stream.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-429-7122.

Sincerely,

E-Signed by Brad Trivette
VERIFY authenticity with ApproveIt...
Brad Trivette

Brad Trivette,
Environmental Inspector III
Division of Water

Enclosure

COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Water

NOTICE OF VIOLATION

To: Mr. Nathan Smith, Owner
467 Erlanger Rd Ste 200
Erlanger, KY 41018

AI Name: Ashley Point MHP **AI ID:** 2221 **Activity ID:** ENV20140001
Discovery ID: CIV20130002 **County:** Jefferson
Enforcement Case ID:
Date(s) Violation(s) Observed: 10/25/2013

This is to advise that you are in violation of the provisions cited below:

1 Violation Description for Subject Item AIOO000002221():

Whenever, by reason of emergency or accident, a spill or discharge occurs which results in pollution of the waters of the Commonwealth, the Division of Water shall be notified by the most rapid means available. [401 KAR 5:015 Section 2]

Description of Non Compliance:

The responsible party/permittee has failed to report the spill or discharge to the Division of Water as required.

The remedial measure(s), and date(s) to be completed by are as follows:

All future spills/bypasses, which would result in or contribute to the pollution of the waters, must be reported to the Division of Water by the most rapid means available.

Failure to comply with the remedial measures or repeated violations of this requirement may subject you and/or your company to an immediate referral to the Division of Enforcement. [401 KAR 5:015 Section 2]

2 Violation Description for Subject Item AIOO000002221():

No person shall directly, or indirectly, throw, drain, run or otherwise discharge into any of the waters of the Commonwealth, or cause, permit or suffer to be thrown, drained, run otherwise discharged into such waters any pollutant, or any substance that shall cause or contribute to the pollution of the waters of the commonwealth in contravention of the standards adopted by the cabinet or in contravention of any of the rules, regulations, permits, or orders of the cabinet or in contravention of any of the provisions of this chapter. [KRS 224.70-110]

Description of Non Compliance:

Pollutants have entered and contributed to the pollution of the waters of the Commonwealth. The raw sewage was leaving the manhole and flowing over the ground into the stream which is about 20 feet away. The stream was very dark and had a strong odor.

The remedial measure(s), and date(s) to be completed by are as follows:

Immediately cease all activity, which is contributing or has contributed to the pollution of the waters of the Commonwealth. Within thirty (30) days of the receipt of this notice, the permittee/responsible party shall submit a plan of action and a schedule of implementation to the undersigned describing the necessary measures taken to address the non-compliance. In addition to the written response plan, you should submit the stream cleaning activities including the actual bill and receipt from the septic company used.

Failure to comply with the remedial measures or repeated violations of this requirement may subject you and/or your company to an immediate referral to the Division of Enforcement. [KRS 224.70-110]

3 Violation Description for Subject Item AIO0000002221():

Surface waters shall not be aesthetically or otherwise degraded. [401 KAR 10:031 Section 2]

Description of Non Compliance:

The waters of the Commonwealth have been degraded. Pollutants have entered and contributed to the pollution of the waters of the Commonwealth. The raw sewage was leaving the manhole and flowing over the ground into the stream which is about 20 feet away. The stream was very dark and had a strong odor.

The remedial measure(s), and date(s) to be completed by are as follows:

Immediately cease all discharges that are aesthetically or otherwise degrading the waters of the Commonwealth. The effluent must be brought into compliance so as to eliminate stream degradation. Within thirty (30) days of the receipt of this notice, the permittee/responsible party shall submit a plan of action and a schedule of implementation to the undersigned describing the necessary measures taken to address the non-compliance. In addition to the written response plan, you should submit the stream cleaning activities including the actual bill and receipt from the septic company used.

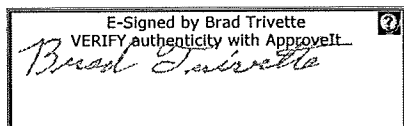
Failure to comply with the remedial measures or repeated violations of this requirement may subject you and or your company to an immediate referral to the Division of Enforcement. [401 KAR 10:031 Section 2]

Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance with remedial measures and their deadlines does not provide exemption from liability for violations during the period of remediation, nor prevent additional remedial measures from being required.

If you have questions or need further information, write or call the undersigned:

Division of Water
Louisville Regional Office
9116 Leesgate Rd
Louisville, KY 40222-5084
502-429-7122 (8:00 AM – 4:30 PM)

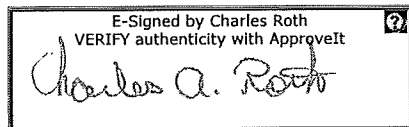
Issued By:



Mr. Brad Trivette, Environmental Inspector III

Date: March 5, 2014

Issued By:



Mr. Charles Roth, Environmental Control Supervisor

Date: March 5, 2014

How Delivered: Certified/Registered # 7010 1060 0000 9371 7279

**Energy and Environment Cabinet
Kentucky Department for Environmental Protection
Division of Water**

Activity: CIV20130002 Investigation

Lead Investigator: Trivette, Brad

Agency Interest/Permit ID: 2221

Agency Interest Name: Ashley Point MHP

Agency Interest Address: 1115 Penile Rd
Louisville, KY 40272

Program: Wastewater

County: Jefferson

Type of Agency Interest: RESIDENCE- Mobile Home Park (nec)

Agency Interest Contact:

Title:

Phone:

Purpose: Investigation

Inspection Type: Incident Investigation

Inspection Date: 10/25/2013

Start Time: 12:00 AM

End Time: 12:00 AM

Latitude: 38.12166700

Longitude: -85.74388900

Coordinate Collection Method:Decimal Degrees

Incident ID(s): 2363487

General Comments:

Person(s) Interviewed:

Name

Organization

Tammy "manager"

Ashley Pinte MHP

Status/Comments:

Comments: I called the onsite manager Tammy at 5:00 pm the same day to instruct her to arrange for the stream to be cleaned up. She said she would take care of it. Joe Murphy's men were already working on the pump station to repair the pumps. The pumps were clogged up again.

AIOO2221

Requirement	Status	Results or Comments
Did the facility notify the Division of Water by the most rapid means available whenever, by reason of emergency or accident, a spill or discharge occurs which results in pollution of the waters of the Commonwealth? [401 KAR 5:015 Section 2]	V	The responsible party/permittee has failed to report the spill or discharge to the Division of Water as required.
Have pollutants entered the waters of the Commonwealth? [KRS 224.70-110]	V	Pollutants have entered and contributed to the pollution of the waters of the Commonwealth. The raw sewage was leaving the manhole and flowing over the ground into the stream which is about 20 feet away.. The stream was very dark and had a strong odor.
Have surface waters been aesthetically or otherwise degraded? [401 KAR 10:031 Section 2]	V	The waters of the Commonwealth have been degraded. Pollutants have entered and contributed to the pollution of the waters of the Commonwealth. The raw sewage was leaving the manhole and flowing over the ground into the stream which is about 20 feet away.. The stream was very dark and had a strong odor.

Investigator: _____ **Title:** _____ **Date:** _____

- N - N-Not Applicable
- E - E-Not Evaluated
- V - V-Out of Compliance-NOV
- C - C-No Violations observed
- I - I-No Violations obs-but impending viol trends obs
- D - D-Out of Compliance-Violations Documented
- O - O-Out of Comp-LOW non-recurrent Adm. or O&M

Received By: _____ **Title:** _____ **Date:** _____

Delivery Method:

WATER TESTING AND ENVIRONMENTAL SERVICES, INC.

1111 Dixie Highway, Suite 201
Louisville, KY 40228
Phone: (502) 438-1100
Fax: (502) 438-1101

INVOICE

Invoice No. 2508

Page 1 of 1

CLIENT:

Sanders Sales & Service
7109 Lorenzo Lane
Louisville, KY 40228

LOCATION:

Ashley Woods Mobile Home Park
Treatment Plant
Louisville, KY

PERSONNEL:

1131

Vernal-Joe S

INSTRUMENT:

Net 30 Days

105

100 Truck Hourly

136

100 Truck Hourly

NOTES:

Signature _____

Exhibit B



Chris Wiest, Attorney at Law, PLLC

25 Town Center Blvd, Suite 104

Crestview Hills, KY 41017

(859) 486-6850 (office)

(859) 495-0803 (facsimile)

(513)257-1895 (cellular)

chris@cwiestlaw.com

March 25, 2014

Mr. Brad Trivette
Division of Water
9116 Leesgate Rd.
Louisville, KY 40222-5084

2014 MAR 28 A 7:51
DIVISION OF ENVIRONMENTAL
PROTECTION

Re: Notice of Violation Response; AI ID: 2221;
AI Name: Ashley Point MHP; Activity ID:
ENV20140001; Jefferson County, KY

Dear Mr. Trivette:

Please note that I have the privilege of representing SSK Communities and the Ashley Point Mobile Home Park ("Ashley"). Please allow this letter to confirm receipt of your letter/notice of violation (NOV), dated March 5, 2014. It is my understanding that the NOV references a sewer lift station issue that Ashley experienced in the summer and fall of 2013. The park discovered, after repeated issues in the summer and fall of 2013, that a disgruntled former tenant had been sabotaging the lift station by inserting objects into the lift station designed to cause the station to fail, including, without limitation, towels, toddler toys, and similar objects. Each time the lift station failed, we repaired it. I have attached, as Exhibits A and B, copies of the invoices for service to the lift station in October, 2013, as well the septic service invoice. Ashley has likewise inspected the stream, and did not notice any residual solids or other objects that would require additional steps for remediation following the above referenced correction action. However, when Ashley discovered the source of the failures and the sabotage by the former tenant, it evicted the former tenant and his girlfriend from the park, and installed locks on the lift station. See Photo, Exhibit C.

We dispute your characterization that there was any "discharge into any of the waters of the state," or that there was any violation of any of the requirements of KRS Chapter 224 or 401 K.A.R. Specifically, a water of the Commonwealth is defined as "any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction." K.R.S. 224.1-010. The discharge in question, as we understand it, was to a small impoundment, which is iterant in nature. It does not, therefore, meet the definition of "river," "stream," "creek" or other definition. We finally dispute that we did not make the required notification in time – the Cabinet was notified of this issue by persons/parties prior to the company being aware of it, and notification was therefore already made. Furthermore, the company's position is that no notification was necessary because no spill or discharged reached waters of the state.

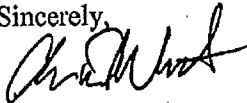
Chris Wiest Attorney at Law, PLLC

Please be aware that the company took immediate and definitive corrective action – the sewer lift was immediately repaired, and inspection was undertaken of the sewer lines on the referenced property, sufficient to ensure that the alleged non-compliance was addressed, and Ashley took steps to prevent further interference or sabotage through the eviction of the offenders and the installation of locks on the lift station.

The repair and remediation efforts were undertaken at the end of October, 2013, and evidenced by the repair invoices, attached. Because the stream, to the extent it exists, is now clear as a consequence of the repair efforts, and there exists no evidence of any ongoing impacts, we believe no further action is necessary. Please accept the remediation and corrective action efforts during the end of October, 2013, as Ashley's plan of action and schedule. To that end, we request that the Cabinet concur with our conclusion that no further action is required.

There are no ongoing effects to the stream, or any waters of the Commonwealth. Please feel free to contact me if you would like to discuss this matter further.

Sincerely,



Christopher Wiest
Attorney for Ashley

Cc:

Hon. Dennis Williams (via email)

Mr. Kurt Keeney (via email)
