

August 23, 2011

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Nally & Hamilton Enterprises, Inc.  
109 South 4th Street  
PO Box 157  
Bardstown, KY 40004  
Tel: (502) 348-0084  
Fax: (502) 348-2552

Stephen Hamilton  
Registered Agent of Nally & Hamilton  
Enterprises, Inc.  
109 South 4th Street  
Bardstown, KY 40004

**Re: Notice of Violations and Intent to File Suit Under the Federal Clean Water Act**

Dear Sir or Madam:

On behalf of Appalachian Voices, Inc., Waterkeeper Alliance, Inc., Kentuckians For The Commonwealth, Inc., Kentucky Riverkeeper, Inc., and Ms. Pat Banks in her official capacity as the Kentucky Riverkeeper (collectively, Appalachian Voices), we are writing in regard to violations of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, committed by Nally & Hamilton Enterprises, Inc. (Nally and Hamilton). This letter constitutes a Notice of Violations and Intent to File Suit (Notice Letter) under Section 505(b) of the Clean Water Act. 33 U.S.C. § 1365(b). Following sixty days from the date of this Notice Letter, Appalachian Voices intends to file suit against Nally and Hamilton for its ongoing violations of an “effluent standard or limitation” within the meaning of the Clean Water Act. 33 U.S.C. § 1365(a)(1)(A), (f).

The violations contained in this Notice Letter are in addition to those alleged in the March 9, 2011 Notice Letter sent to Nally and Hamilton by Appalachian Voices, which are also contained in the complaint filed on May 10, 2011 by Appalachian Voices against Nally and Hamilton in the federal district court for the Eastern District of Kentucky.

A person violates an “effluent standard or limitation” under the Clean Water Act by violating, *inter alia*, “a permit or condition thereof” that is in effect and issued under the National Pollutant Discharge Elimination System (NPDES). 33 U.S.C. §§ 1365(a)(1)(A), (f), 1342. The United States Environmental Protection Agency (EPA) has delegated NPDES permitting authority within Kentucky to the Commonwealth. 33 U.S.C. § 1342(b); Approval of Kentucky’s NPDES Program, 48 Fed. Reg. 45,597 (Oct. 6, 1983); Ky. Rev. Stat. Ann. § 224.16-050. As a result, Nally and Hamilton’s coal mining discharges are subject to permits issued by the Kentucky Department for Environmental Protection’s Division of Water (DOW), whether an

individual NPDES permit or the Kentucky Pollutant Discharge Elimination System Coal General Permit No. KYG040000 (General Permit).

The Clean Water Act requires owners or operators of point sources that discharge pollutants to “(i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods” and “(iv) sample such effluents” as the Administrator of the EPA may require. 33 U.S.C. § 1318(a)(A). The EPA has established by regulation applicable monitoring, recordkeeping, testing, and reporting requirements, which apply to all NPDES permits. See 40 C.F.R. §§ 122.41(j) and (l), 122.48, 123.25. In accordance with these regulations, Kentucky’s General Permit and individual NPDES permits mandate that permittees such as Nally and Hamilton monitor, sample, and test their discharged pollutants and report the results to the Kentucky Department for Natural Resources in Discharge Monitoring Reports (DMRs).

As described in more detail below and in the attached Appendix, Nally and Hamilton has violated and continues to violate the monitoring, sampling, testing and reporting requirements of the NPDES permits applicable to its discharges. Nally and Hamilton has violated the permits’ reporting requirements by submitting false and incomplete data in its DMRs. This submission of false and incomplete data raises the reasonable inference that Nally and Hamilton failed to monitor, sample, and test these discharges in the first place. Nally and Hamilton is therefore in violation of an “effluent standard or limitation” within the meaning of the Clean Water Act and is subject to liability in a citizen suit. 33 U.S.C. § 1365(a).

## **PERMIT MONITORING AND REPORTING REQUIREMENTS**

### **1. General Permit**

The current General Permit went into effect on August 1, 2009. It controls for Flow, Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Oil and Grease, Conductivity, Acidity, Alkalinity, and pH. See, e.g., Page I-1 (2009). For reclamation areas, the 2009 General Permit controls for Flow, Settleable Solids, Oil and Grease, Acidity, Alkalinity, Conductivity, and pH. See, e.g., Page I-5 (2009). The limits and monitoring for Oil and Grease do not apply if the permittee implements a “Best Management Practices” plan. See, e.g., Page I-1, I-5 (2009). The previous General Permit went into effect on January 1, 2004. It controlled for Flow, Total Suspended Solids, Total Iron, Total Manganese (except for Alkaline Mine Drainage sites), Oil and Grease, Acidity, Alkalinity, and pH. See, e.g., Page I-1, I-3 (2004). As with the 2009 General Permit, the permittee was not subject to the requirements for Oil and Grease if it implemented a Coal Best Management Practices plan. See Page I-11 (2004).

Both the 2009 and 2004 General Permits impose sampling, monitoring, testing and reporting requirements. First, the General Permit requires that samples and measurements “shall be

representative of the volume and nature of the monitored discharge.” Page I-15, Section D (2009); *see also* Page I-12, Section D (2004). Samples and measurements taken and reported under the permit must be accurate and reported accurately.

Second, the General Permit requires that “[t]est procedures for the analysis of pollutants shall conform to all regulations published pursuant to KRS 224 (401 KAR 5:065, Section 1(10)).” Page I-18, Section F (2009); *see also* Page I-16, Section F (2004). The cited Kentucky Administrative Regulation (401 KAR 5:065) incorporates a federal regulation, 40 C.F.R. § 122.41, which requires monitoring to be conducted according to specified, approved test procedures or methods.<sup>1</sup> *See* 40 C.F.R. § 122.41(j)(4); *id.* § 136.3 (detailing testing methods applicable to each pollutant).

Third, the General Permit states that “[i]t is the responsibility of the permittee to demonstrate compliance with permit parameter limitations by utilization of sufficiently sensitive analytical methods.” Page II-1 (2009); *see also* Page II-1 (2004).

Fourth, the General Permit requires that “[d]ischarge monitoring results obtained during the previous month shall be summarized for each outfall and reported using only . . . approved Discharge Monitoring Report (DMR) forms and formats.” Page I-15, Section D (2009); *see also* Page I-12, Section D (2004).

## **2. Individual Permits**

Individual permits applicable to Nally and Hamilton’s discharges contain the same monitoring and reporting requirements contained in the General Permit. *See, e.g.*, Kentucky Pollutant Discharge Elimination System Permit No. KY0108227 (effective April 1, 2010), at Pages I-13, I-16, II-1, I-14; Kentucky Pollutant Discharge Elimination System Permit No. KY0105872 (effective July 1, 2007), at Pages I-8, I-11, II-1, I-9. All Clean Water Act NPDES permits must contain these requirements or their equivalent. *See* 40 C.F.R. §§ 122.41, 122.41(j)(1),(4), 122.41(l)(4)(i) (conditions that apply to all NPDES permits include the following: “[s]amples and measurements taken for the purpose of monitoring shall be representative of the monitored activity”; “[m]onitoring must be conducted according to test procedures approved under 40 CFR Part 136”; and “[m]onitoring results must be reported on a Discharge Monitoring Report (DMR)”; *id.* § 123.25.

---

<sup>1</sup> When the current General Permit was signed on July 1, 2009, the cited regulation (401 KAR 5:065, Section 1) expressly incorporated substantive provisions of 40 C.F.R. § 122.41. The current version of the cited regulation, amended effective September 25, 2009, instead incorporates these provisions by reference. *See* 401 KAR 5:065, Section 2.

## **NALLY AND HAMILTON'S DISCHARGE MONITORING REPORTS**

Both the General Permit and applicable individual permits therefore require Nally and Hamilton to take accurate samples and measurements of discharged effluents, use approved testing procedures and sufficiently sensitive analytical methods, and summarize the results on approved DMR forms. Nally and Hamilton's submitted DMRs violate these monitoring and reporting conditions in multiple respects.

First, Nally and Hamilton's DMRs from at least October 2006 to March 2011 include false or even fraudulent data. On some occasions, Nally and Hamilton submitted DMRs in which all effluent data reported for a certain outfall in a certain month repeat exactly the data reported for the same outfall in another month. On other occasions, Nally and Hamilton submitted DMRs in which all effluent data reported for a certain outfall in a certain month repeat exactly the data reported for a *different* outfall in the same month. On another occasion, Nally and Hamilton submitted DMRs in which all effluent data reported for a certain outfall in a certain month repeat exactly the data reported for a *different* outfall in a *different* month. On yet another occasion, Nally and Hamilton submitted DMRs in which one set of data reported for an outfall as having been taken on a particular day repeat exactly the data reported as having been taken on a different day, for the same outfall.

In other words, Nally and Hamilton has been re-submitting the same data for different time periods or different outfalls, rather than submitting the results of any monitoring and testing that it might have done. This raises the inference that no monitoring or testing was done at all, at least for the outfalls and time periods in question.

***For a detailed, DMR-specific identification of Nally and Hamilton's submissions of false data, please see the items listed under heading A in the attached Appendix.***

Second, Nally and Hamilton failed to submit DMRs for certain outfalls even when the submission of DMRs was required by the applicable permit.

***For a detailed, DMR-specific identification of Nally and Hamilton's failures to submit data, please see the items listed under heading B in the attached Appendix.***

## **NALLY AND HAMILTON'S REPORTS VIOLATE THE TERMS OF APPLICABLE PERMITS**

Nally and Hamilton's DMRs violate numerous conditions of the permits applicable to its discharges. The permit violations that follow are based on the assumption that the relevant outfalls were in fact regulated by a valid NPDES discharge permit at the time of the violation, as is suggested by Nally and Hamilton's submission of DMRs pursuant to such permits.

First, false or missing DMRs violate the requirement that “[d]ischarge monitoring results obtained during the previous month” be summarized for each outfall and reported using approved DMR forms. *See, e.g.*, Page I-15, Section D (2009). Instead of summarizing and reporting the results of any monitoring, the DMRs described above and in the Appendix report recycled data or fail to report data at all.

Second, Nally and Hamilton’s submission of false DMRs and failure to submit DMRs raises an inference that the company is failing to comply with the monitoring and testing requirements of its permits. The reporting of false data suggests a failure to collect accurate data in the first place. Nally and Hamilton is therefore violating the requirements in its permits to take accurate samples and measurements that are “representative of the volume and nature of the monitored discharge” and to use “[t]est procedures for the analysis of pollutants” that conform to applicable regulations. *See, e.g.*, Page I-15, Section D, Page I-18, Section F (2009). Nally and Hamilton’s DMRs also fail to demonstrate compliance with permit parameter limitations “by utilization of sufficiently sensitive analytical methods.” *See, e.g.*, Page II-1 (2009). With respect to recycled or missing data, Nally and Hamilton has not demonstrated the use of *any* analytical methods with regard to its discharges, much less “sufficiently sensitive” methods.

Nally and Hamilton’s permits incorporate by reference federal regulations applicable to all State permits. *See, e.g.*, Page II-1 (2009); 401 KAR 5:065; 40 C.F.R. §§ 122.41, 123.25(a)(12). Nally and Hamilton’s false and missing DMRs therefore violate the conditions of its discharge permits for the additional reason that they violate requirements in applicable federal regulations. *See, e.g.*, 40 C.F.R. § 122.41(j)(1) (samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity); *id.* § 122.41(l)(4)(i) (monitoring results must be reported on a Discharge Monitoring Report).

Each of Nally and Hamilton’s permit violations described above and in the Appendix constitutes a violation of an “effluent standard or limitation” within the meaning of the Clean Water Act, which subjects Nally and Hamilton to liability in a citizen suit by Appalachian Voices. 33 U.S.C. § 1365(a)(1)(A), (f); *Am. Canoe Ass’n, Inc. v. City of Louisa Water & Sewer Comm’n*, 389 F.3d 536, 539 (6th Cir. 2004) (permit holders are generally required to monitor their discharges and report the results, and noncompliance with a discharge permit constitutes a violation of the Clean Water Act, triggering the citizen suit provisions); *Menzel v. County Utils. Corp.*, 712 F.2d 91, 94 (4th Cir. 1983) (“[A] discharger that fails to file discharge-monitoring reports, or fails to file accurate reports, would be in violation of the provisions of its NPDES permit and would be subject to citizens’ suits under 33 U.S.C. § 1365.”) These ongoing and continuing violations

subject Nally and Hamilton to civil penalties per day for each violation. 33 U.S.C. §§ 1319(d), 1365(a).<sup>2</sup>

### **NALLY AND HAMILTON'S VIOLATIONS ARE ONGOING AND CONTINUING**

Nally and Hamilton's repeated practice of submitting false and incomplete data between 2006 and 2011 raises a good faith belief that such violations are ongoing and continuing through today, and have been ongoing for at least the past five years, and will continue in the future unless enjoined by a court of law.

### **ALTERNATIVELY, NALLY AND HAMILTON HAS BEEN DISCHARGING WITHOUT A PERMIT**

As to some of the permit violations described above and in the Appendix, Nally and Hamilton may have alternatively been discharging pollutants without a permit.

The following outfalls identified in the Appendix may not have been subject to a NPDES discharge permit at the time Nally and Hamilton violated, or would have violated, the terms of any such permit:

- **8078056 [KY0042765<sup>3</sup> or KY0042675<sup>4</sup>] – outfall Q – 3rd and 4th Quarters 2009**
- **8480211 [KY0101991] – outfalls 4 and 5 – 1st Quarter 2011**
- **8480189 [KY0100919] – outfalls 1 and 5 – 1st Quarter 2010**

Counsel for Appalachian Voices made an Open Records Act request to DOW in March 2011 for the above-listed individual permits. After conducting a thorough review of the files received from DOW in response to the Open Records Act request, Appalachian Voices has been unable to locate any non-expired versions of the above-referenced individual permits (KY0042765, KY0101991, or KY0100919).

---

<sup>2</sup> Nally and Hamilton is liable for violations of the 2004 General Permit although that permit is not currently in effect because each of the provisions from that permit that Nally and Hamilton has violated was carried over to the current 2009 General Permit, and thus continues to apply. *See Louisiana Env'tl. Action Network, Inc. v. Evans Cooperage Co., Inc.*, No. Civ.A. 95-3002, 1997 WL 824310, at \*7 (E.D. La. Sept. 30, 1997) (citizen suits may include violations of permits no longer in effect as long as the previous limitations have been carried over or made more stringent in the current permit); *Pub. Interest Research Group of New Jersey, Inc. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 119 (D.N.J. 1988) (same).

<sup>3</sup> This is the KPDES permit number identified in a file created by the Division of Mine Permits.

<sup>4</sup> This is the KPDES permit number given in Nally and Hamilton's 2010 and 2011 DMRs.

As reported on its DMRs, Nally and Hamilton was discharging pollution from the outfalls listed above during the noted time periods. If Nally and Hamilton was discharging subject to the listed individual permits, it almost certainly violated monitoring and reporting provisions of those permits by submitting false data, as described in the attached Appendix. Alternatively, if the outfalls listed above are not and were not subject to a valid NPDES permit, Nally and Hamilton has been violating and continues to violate the Clean Water Act by discharging pollutants without a permit, at least since the time of the expiration of any prior applicable permit. See 33 U.S.C. § 1311(a) (prohibiting the discharge of any pollutant by any person except as in compliance with enumerated sections of the Clean Water Act, including section 1342 relating to NPDES permits); *id.* § 1365(a) (authorizing citizen suits against any person alleged to be in violation of an “effluent standard or limitation”); *id.* § 1365(f) (defining “effluent standard or limitation” to mean, *inter alia*, an unlawful act under section 1311(a)).

### **CIVIL PENALTIES AND OTHER RELIEF**

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty of up to \$32,500 per day (if the violations occurred between March 15, 2004 and January 12, 2009) or up to \$37,500 per day (if the violations occurred after January 12, 2009). Appalachian Voices will seek assessment of civil penalties as well as injunctive relief, litigation costs including attorneys’ fees, and such other relief as permitted by law. See 33 U.S.C. § 1365(a), *id.* § 1365(d).

### **CONTACT INFORMATION**

The names, addresses and telephone numbers of each person giving notice pursuant to this Notice Letter are:

- Appalachian Voices, Inc. (contact person: Ms. Willa Mays, Executive Director, 191 Howard Street, Boone, North Carolina 28607, Phone: (828) 262-1500);
- Waterkeeper Alliance, Inc. (contact person: Mr. Marc A. Yaggi, 17 Battery Place, Suite 1329, New York, New York 10004, Phone: (212) 747-0622);
- Kentuckians For The Commonwealth, Inc. (contact person: Mr. Burt Lauderdale, Executive Director, P.O. Box 1450, London, Kentucky 40743, Phone: (606) 878-2161);
- Kentucky Riverkeeper, Inc. (contact person: Ms. Pat Banks, 300 Summit Street, Richmond, Kentucky 40475, Phone: (859) 622-3065); and
- Ms. Pat Banks, in her capacity as Kentucky Riverkeeper, 300 Summit Street, Richmond, Kentucky 40475, Phone: (859) 622-3065.

Please address all communications regarding this Notice Letter to counsel. The names, addresses, and telephone numbers of counsel representing Appalachian Voices are:

- Aaron Colangelo and Steven Fleischli, Natural Resources Defense Council, 1152 15th Street NW, Suite 300, Washington, DC 20005, Phone: (202) 289-2376;
- Mitchell Bernard and Catherine Rahm, Natural Resources Defense Council, 40 W. 20th Street, New York, New York 10011, Phone: (212) 727-4628; and
- Burke A. Christensen, 350 Lancaster Avenue, Richmond, Kentucky 40475, Phone: (859) 622-1120.

## CONCLUSION

Upon expiration of the 60-day notice period, Appalachian Voices intends to file suit pursuant to Section 505(a) of the Clean Water Act for the above violations. Given Nally and Hamilton's pattern and practice of falsifying its DMRs and failing to submit required data (and/or discharging without a NPDES permit), Appalachian Voices reserves the right to add to the specific violations set forth in the Appendix additional claims based on the same or similar violations upon determining that such claims exist based on information made available after the service of this Notice Letter.

Sincerely,



---

Aaron Colangelo  
Steven Fleischli\*  
Natural Resources Defense Council  
1152 15th Street NW, Suite 300  
Washington, DC 20005  
Phone: (202) 289-2376

Mitchell S. Bernard  
Catherine Marlantes Rahm  
Natural Resources Defense Council  
40 W. 20th Street  
New York, NY 10011  
Phone: (212) 727-4628

---

\* Admitted in California; not yet admitted to practice law in Washington DC.



Burke A. Christensen  
 350 Lancaster Avenue  
 Richmond, KY 40475  
 Phone: (859) 622-1120

cc: (By certified mail, return receipt requested)

|  |  |
|--|--|
| <p>Lisa P. Jackson, Administrator<br/>         Environmental Protection Agency Headquarters<br/>         Ariel Rios Building<br/>         1200 Pennsylvania Avenue, NW<br/>         Mail Code: 1101A<br/>         Washington, DC 20460</p>                         | <p>Sandy Gruzesky, Director<br/>         Kentucky Department for Environmental<br/>         Protection, Division of Water<br/>         200 Fair Oaks Lane, Fourth Floor<br/>         Frankfort, KY 40601</p>           |
| <p>Gwendolyn Keyes Fleming, Regional<br/>         Administrator<br/>         Environmental Protection Agency, Region 4<br/>         Atlanta Federal Center<br/>         61 Forsyth Street, SW<br/>         Mail Code: 9T25<br/>         Atlanta, GA 30303-8960</p> | <p>Peter Goodmann, Assistant Director<br/>         Kentucky Department for Environmental<br/>         Protection, Division of Water<br/>         200 Fair Oaks Lane, Fourth Floor<br/>         Frankfort, KY 40601</p> |
| <p>Eric H. Holder, Jr., Attorney General<br/>         U.S. Department of Justice<br/>         950 Pennsylvania Avenue, NW<br/>         Washington, DC 20530-0001</p>   | <p>R. Bruce Scott, Commissioner<br/>         Kentucky Department for Environmental<br/>         Protection<br/>         300 Fair Oaks Lane<br/>         Frankfort, KY 40601</p>  |
| <p>Jack Conway, Attorney General<br/>         Office of the Attorney General<br/>         Capitol Suite 118<br/>         700 Capitol Avenue<br/>         Frankfort, KY 40601-3449</p>  | <p>Carl Campbell, Commissioner<br/>         Kentucky Department for Natural Resources<br/>         2 Hudson Hollow Road<br/>         Frankfort, KY 40601</p>   |
|  | <p>Dr. Len Peters, Cabinet Secretary<br/>         Kentucky Energy and Environment Cabinet<br/>         500 Mero Street<br/>         5th Floor, Capital Plaza Tower<br/>         Frankfort, KY 40601</p>                |

# APPENDIX

## A—False DMRs—Repeated Data

| Permit   | Outfall         | Monitoring Period                     | Description of Violation  |
|--|-----------------|---------------------------------------|---|
| 8070342<br>[KYG046205]   | 1               | 1st and 4th<br>Quarters 2010          | 28 parameter measurements (4 reported samples of each of 7 parameters—Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Conductivity, Acidity, Alkalinity, and pH) from February and March 2010 repeated in November and December 2010   |
| 8070342<br>[KYG046205]   | 2               | 1st and 4th<br>Quarters 2010          | 28 parameter measurements (4 reported samples of each of 7 parameters—Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Conductivity, Acidity, Alkalinity, and pH) from February and March 2010 repeated in November and December 2010   |
| 8070342<br>[KYG046205]   | 3               | 1st and 4th<br>Quarters 2010          | 28 parameter measurements (4 reported samples or “averages” of each of 7 parameters—Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Conductivity, Acidity, Alkalinity, and pH) from February and March 2010 repeated in November and December 2010                             |
| 8070342<br>[KYG046205]   | 4               | 1st and 4th<br>Quarters 2010          | 28 parameter measurements (4 reported samples or “averages” of each of 7 parameters—Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Conductivity, Acidity, Alkalinity, and pH) from February and March 2010 repeated in November and December 2010                             |
| 8070346<br>[KYG042163]   | 10LR            | 4th Quarter 2010,<br>1st Quarter 2011 | 5 parameter measurements (Flow, Settleable Solids, Conductivity, Alkalinity, and pH, 1 sample each) from October 2010 repeated in January 2011  |
| 8070347<br>[KYG041895]<br>and<br>8070355<br>[KY0108227]  | BB1<br>and<br>0 | 1st Quarter 2011                      | 12 parameter measurements (1 sample each of Flow, Conductivity, Acidity, and Alkalinity, and 2 samples or “averages” each of Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, and pH) from Permit 8070347, Outfall BB1, repeated in Permit 8070355, Outfall 0, in February 2011 |
| 8075220<br>[KYG044017] <sup>1</sup><br>[KYG041902] <sup>2</sup><br>and<br>8078057<br>[KYG041902] | 1TC             | 4th Quarter 2006                      | 7 parameter measurements (1 sample each of Acidity, Alkalinity, Total Iron, Flow, Total Manganese, pH, and Total Suspended Solids) from October 11, 2006 on permit 8078057, Outfall 1TC, repeated in October 23, 2006 on permit 8075220, Outfall 1TC  |
| 8078056<br>[KY0042765] <sup>3</sup><br>[KY0042675] <sup>4</sup>                                  | Q               | 3rd and 4th<br>Quarters 2009          | 14 parameter measurements (2 samples each of Acidity, Alkalinity, Total Iron, Flow, Total Manganese, pH, and Total Suspended Solids) from July 2009 repeated in October 2009  |

<sup>1</sup> KPDES permit number identified by Division of Mine Permits and Division of Water files.

<sup>2</sup> KPDES permit number given in Nally and Hamilton’s 2010 and 2011 DMRs.

<sup>3</sup> KPDES permit number identified by Division of Mine Permits.

<sup>4</sup> KPDES permit number given in Nally and Hamilton’s 2010 and 2011 DMRs.

|  |              |   |   |
|--|--------------|---|---|
| 8480176<br>[KY0100919] <sup>5</sup><br>[KYG046555] <sup>6</sup>                                  | 3 KPDES      | 1st and 2nd<br>Quarters 2009                | 14 parameter measurements (2 samples each of Acidity, Alkalinity, Total Iron, Flow, Total Manganese, pH, and Total Suspended Solids) from March 2009 repeated in June 2009  |
| 8480176<br>[KY0100919] <sup>5</sup><br>[KYG046555] <sup>6</sup>                                  | 3 KPDES      | 3rd and 4th<br>Quarters 2009                | 14 parameter measurements (2 samples each of Acidity, Alkalinity, Total Iron, Flow, Total Manganese, pH, and Total Suspended Solids) from September 2009 repeated in December 2009  |
| 8480176<br>[KY0100919] <sup>5</sup><br>[KYG046555] <sup>6</sup><br>and<br>8480211<br>[KY0101991] | 4            | 1st Quarter 2011                            | 12 parameter measurements (1 sample each of Flow, Conductivity, Acidity, and Alkalinity, and 2 samples or "averages" each of Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, and pH) from Permit 8480176, Outfall 4, repeated in Permit 8480211, Outfall 4, in February 2011 |
| 8480176<br>[KY0100919] <sup>5</sup><br>[KYG046555] <sup>6</sup><br>and<br>8480211<br>[KY0101991] | 5            | 1st Quarter 2011                            | 12 parameter measurements (1 sample each of Flow, Conductivity, Acidity, and Alkalinity, and 2 samples or "averages" each of Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, and pH) from Permit 8480176, Outfall 5, repeated in Permit 8480211, Outfall 5, in February 2011 |
| 8480189<br>[KY0100919]   | 1 and 5      | 1st Quarter 2010                            | 16 parameter measurements (2 samples each of Flow, Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Conductivity, Acidity, Alkalinity, and pH) from January 2010 repeated for Outfall 5 from Outfall 1  |
| 8488051<br>[KYG045351]   | 304          | 2nd and 3rd<br>Quarters 2010                | 16 parameter measurements (2 samples each of Flow, Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Conductivity, Acidity, Alkalinity, and pH) from June 2010 repeated in September 2010  |
| 8600380<br>[KYG045520]   | S-18         | 4th Quarter 2010<br>and 1st Quarter<br>2011 | 11 parameter measurements (1 sample each of Flow, Conductivity, and Alkalinity, and 2 samples or "averages" each of Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, and pH) from November 2010 repeated in February 2011 <sup>7</sup>  |
| 8660276<br>[KYG045935]   | 13           | 1st and 2nd<br>Quarters 2007                | 42 parameter measurements (6 samples each of pH, Acidity, Alkalinity, Total Iron, Total Manganese, Total Suspended Solids, and Flow) from January, February, and March 2007 repeated in April, May, and June 2007   |
| 8660276<br>[KYG045935]   | 13           | 4th Quarter 2007<br>and 1st Quarter<br>2008 | 14 parameter measurements (2 samples each of Acidity, Alkalinity, Total Iron, Flow, Total Manganese, pH, and Total Suspended Solids) from November 2007 repeated in February 2008   |
| 8670415<br>[KY0103551] <sup>8</sup><br>[KYG046560] <sup>9</sup>                                  | 29 and<br>30 | 1st Quarter 2010                            | 16 parameter measurements (2 samples each of Flow, Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, Conductivity, Acidity, Alkalinity, and pH) from January 2010 for Outfall 30 repeated in March 2010 for Outfall 29   |

<sup>5</sup> KPDES permit number given in Nally and Hamilton's Q1, Q2, and Q3 2010 DMRs, and Q1 2011 DMRs.

<sup>6</sup> KPDES permit number given in Nally and Hamilton's Q4 2010 DMRs and Division of Water files.

<sup>7</sup> The February 2011 DMR also bears the November 2010 date.

<sup>8</sup> KPDES permit number given in Nally and Hamilton's Q1, Q2, and Q3 2010 DMRs.

<sup>9</sup> KPDES permit number given in Nally and Hamilton's Q4 2010 DMRs and Q1 2011 DMRs.

|                        |                 |                  |  |
|------------------------|-----------------|------------------|--|
| 8970376<br>[KYG044960] | 36<br>and<br>37 | 1st Quarter 2011 | 24 parameter measurements (2 samples each of Flow, Conductivity, Acidity, and Alkalinity, and 4 samples or "averages" each of Total Suspended Solids, Total Recoverable Iron, Total Recoverable Manganese, and pH) from Outfall 36 repeated in Outfall 37 in February and March 2011 |
|------------------------|-----------------|------------------|--|

### B—Missing DMRs

| Permit  | Outfall | Monitoring Period | Description of Violation                       |
|---|---------|-------------------|--|
| 8970441<br>[KY0105872] <sup>10</sup><br>[KYG046014] <sup>11</sup> | 3       | 4th Quarter 2009  | No DMR submitted for December 2009             |
| 8480189<br>[KY0100919]  | 4       | 2nd Quarter 2010  | No DMRs submitted for April, May or June 2010. |

<sup>10</sup> KPDES permit number identified by Division of Water files.

<sup>11</sup> KPDES permit number given in Nally and Hamilton's 2010 and 2011 DMRs.