



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
875 S Main St  
London, KY 40741-1902  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Dr  
Hazard, KY 41701

Re: Performance Audit Inspection  
AI ID: 14702  
AI Name: ICG Hazard, LLC (813-0293)  
Activity ID: ENV20100001  
Permit No. KYG044802  
Breathitt County, KY

Dear Mr. Feltner:

Attached for your information and records is a copy of the Performance Audit Inspection performed at ICG Hazard, LLC (813-0293) on October 14, 2010.

As a result of the inspection, the Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

*Kimberly Farris*

Ms. Kimberly Farris,  
Environmental Scientist  
Division of Water

Enclosure

CC: Hazard Regional Office  
Don Gibson



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

NOTICE OF VIOLATION

To: ICG Hazard LLC  
1021 Tori Dr  
Hazard, KY 41701

AI Name: ICG Hazard, LLC (813-0293)      AI ID: 14702    Activity ID: ENV20100001  
County: Breathitt  
Date(s) Violation(s) Observed: 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000014702():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(j)(2)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG's contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP) along with copies of the current chain of custody and bench sheet forms as well as the analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000014702():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(e)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained. BMP plan was available on-site.

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

The permittee shall, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet form, maintenance, reagent, calibration and precipitation logs, and Standard Operating Procedures to be used. Each form or log submitted shall include the following information, as appropriate:

- The date, exact place, and time of sampling or measurements;
  - The individual(s) who performed the sampling or measurements;
  - The date(s) analyses were performed;
  - The individual(s) who performed the analyses;
  - The analytical techniques or methods used; and
  - The results of such analyses.
- [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000014702():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(e)]

**Description of Non Compliance:**

The facility has failed to comply with the effluent limitations contained in the permit. DMRs reviewed from January 2008 to 2nd quarter 2010. DMR reports all parameters within permit limits. The county is listed incorrectly (Perry instead of Breathitt) for all 2008 DMRs and the 1st quarter 2009 DMR. All DMRs list every acidity sample result as 0. The lowest detection limit required by the test method is <10 mg/l and any value lower than <10 mg/l should be reported as BDL (below detection limit).

**Other DMR findings:**

1st qtr 2008: listed as 2nd qtr 2008

3rd qtr 2009: missing conductivity results for August and September 2009

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

The permittee shall comply with effluent limitations and all conditions of the KPDES permit. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. The DMR shall be filled out completely. Any exceedances or unusual conditions for that monitoring period shall be described in the comments section of the DMR. Conductivity data for August and September 2009 did not appear to have been submitted since there are no results submitted on the DMR and no comments were included either. However, the conductivity results for these two months were received on separate data forms received by DNR in December 2009 (past the October 28, 2009 deadline). Ensure DMRs and any documentation included with DMRs are submitted timely according to the permit. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000014702():**

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a

violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(j)(4)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

Upon the receipt of this notice, the permittee shall comply with all monitoring requirements specified in the permit and shall comply with all conditions of the KPDES permit. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. ICG Hazard shall require Geological Sciences Laboratory to obtain proper sampling bottles for each parameter and ice samples during transportation to the lab. Collected samples must be immediately preserved so this should occur on-site before transportation to the laboratory. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO00000147020:**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. ICG Hazard shall require GSL to obtain proper sampling bottles for each parameter and ice samples during transportation to the lab. Collected samples must be immediately preserved so this should occur on-site before transportation to the laboratory. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit. Along with this corrective action plan, the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the quality assurance and quality control protocols being implemented by the laboratory. [401 KAR 5:065 Section 2(1)]

**6 Violation Description for Subject Item AIOO00000147020:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.[401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

Comply with all conditions of the KPDES permit. Immediately implement 40 CFR Part 136 sampling collection and analysis procedures. Maintain documentation of analysis results as well as all quality assurance, quality control, calibration and maintenance events. Obtain pH and conductivity equipment approved by EPA for field sampling. [401 KAR 5:065 Section 2]

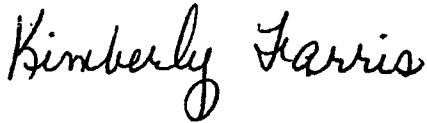
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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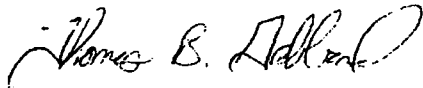
If you have questions or need further information, write or call the undersigned:

Division of Water  
Central Office  
200 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Ms. Kimberly Farris, Environmental Scientist



Issued By:

Ms. Kimberly Farris, Environmental Scientist  
Date: November 29, 2010



Issued By:

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 110004  
AI Name: ICG Hazard LLC (813-0272)  
Activity ID: ENV20100001  
Permit No. KYG046093  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



*Kentucky*

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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (813-0272)    **AI ID:** 110004    **Activity ID:** ENV20100001

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000110004():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000110004():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000110004():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000110004():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO00001100040:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

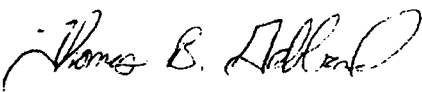
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

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200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
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November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 12720  
AI Name: ICG Hazard LLC (813-0291)  
Activity ID: ENV20100002  
Permit No. KYG041123  
Breathitt County, Kentucky

Dear Mr. Feltner:

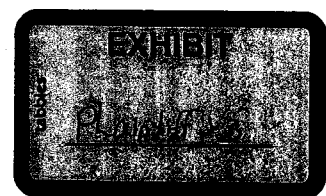
The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (813-0291)    **AI ID:** 12720 **Activity ID:** ENV20100002

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000012720():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000012720():**

**Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000012720():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000012720():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000012720():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 97636  
AI Name: ICG Hazard LLC (813-0294)  
Activity ID: ENV20100001  
Permit No. KYG046108  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

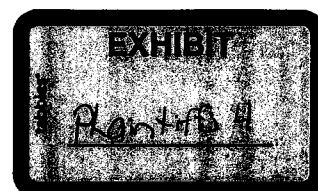
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (813-0294)    **AI ID:** 97636 **Activity ID:** ENV20100001

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000097636():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000097636():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000097636():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000097636():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIO000097636():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13894  
AI Name: ICG Hazard LLC (813-0296)  
Activity ID: ENV20100001  
Permit No. KYG043595  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



*Kentucky*

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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (813-0296)    **AI ID:** 13894 **Activity ID:** ENV20100001

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000013894():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000013894():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance.

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000013894():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000013894():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000013894():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

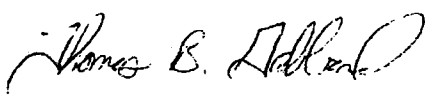
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 82800  
AI Name: ICG Hazard LLC - Flint Ridge  
(813-0315)  
Activity ID: ENV20100002  
Permit No. KYG046206  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC - Flint Ridge (813-0315)      **AI ID:** 82800 **Activity ID:** ENV20100002  
**County:** Breathitt  
**Enforcement Case ID:**  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000082800():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000082800():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000082800():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000082800():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIO000082800():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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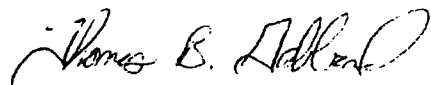
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200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
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Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: \_\_\_\_\_



Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

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Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 14210  
AI Name: ICG Hazard LLC (Multiple)  
Activity ID: ENV20100002  
Permit No. KYG044403  
Breathitt County, Kentucky

Dear Mr. Feltner:

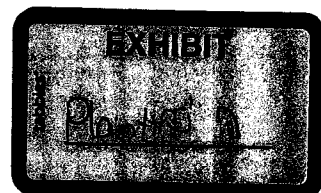
The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (Multiple)      **AI ID:** 14210 **Activity ID:** ENV20100002

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000014210():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000014210():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000014210():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000014210():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIO00000142100:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

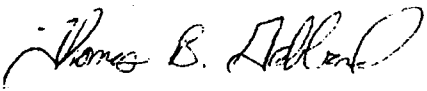
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

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DEPARTMENT FOR ENVIRONMENTAL PROTECTION

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www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 14668  
AI Name: ICG Hazard LLC (813-5026)  
Activity ID: ENV20100002  
Permit No. KYG044753  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (813-5026)    **AI ID:** 14668 **Activity ID:** ENV20100002

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000014668():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000014668():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000014668():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000014668():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



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**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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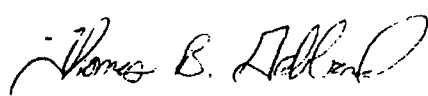
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Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: \_\_\_\_\_

  
Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

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November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 14210  
AI Name: ICG Hazard LLC (Multiple)  
Activity ID: ENV20100001  
Permit No. KYG044019  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

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Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson

Kentucky

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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (Multiple)      **AI ID:** 14210 **Activity ID:** ENV20100001

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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200 Fair Oaks Lane, 4<sup>th</sup> Floor  
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Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: \_\_\_\_\_



Mr. Thomas B. Gabbard, Environmental Control Manager

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November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 412  
AI Name: ICG Hazard LLC - Flint Ridge  
Plant (813-8018)  
Activity ID: ENV20100001  
Permit No. KY0023086  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

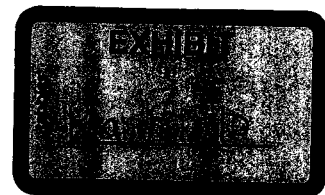
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Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC - Flint Ridge Plant (813-8018)      **AI ID:** 412      **Activity ID:**  
ENV20100001  
**County:** Breathitt  
**Enforcement Case ID:**  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000412():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000412():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation

and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000412():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000412():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage



refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000412():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By:



Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13896  
AI Name: ICG Hazard LLC (813-8019)  
Activity ID: ENV20100001  
Permit No. KYG043598  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

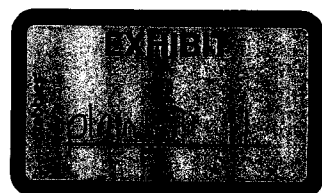
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (813-8019)    **AI ID:** 13896 **Activity ID:** ENV20100001

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000013896():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000013896():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000013896():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000013896():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000138960:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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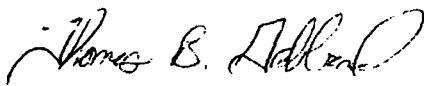
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: \_\_\_\_\_



Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 12590  
AI Name: ICG Hazard LLC (860-0445)  
Activity ID: ENV20100001  
Permit No. KYG040737  
Knott County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

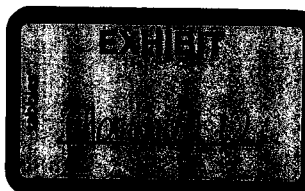
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (860-0445)    **AI ID:** 12590 **Activity ID:** ENV20100001

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000012590():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000012590():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000012590():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000012590():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000012590):**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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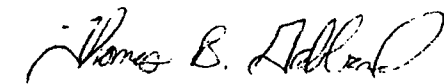
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By:



Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13858  
AI Name: ICG Hazard LLC (866-0281)  
Activity ID: ENV20100001  
Permit No. KYG043540  
Leslie County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (866-0281)    **AI ID:** 13858 **Activity ID:** ENV20100001

**County:** Leslie

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000013858():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000013858():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000013858():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000013858():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000013858():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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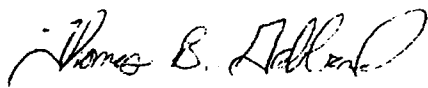
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By:



Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 15350  
AI Name: ICG Hazard LLC (866-0295)  
Activity ID: ENV20100002  
Permit No. KYG045542  
Leslie County, Kentucky

Dear Mr. Feltner:

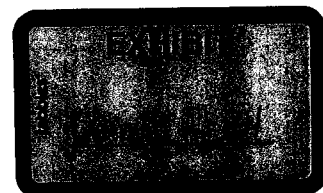
The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (866-0295)    **AI ID:** 15350 **Activity ID:** ENV20100002

**County:** Leslie

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000015350():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000015350():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000015350():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000015350():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000153500:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

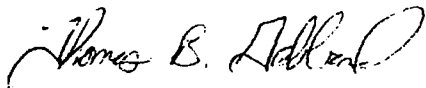
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By:

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 12952  
AI Name: ICG Hazard LLC (866-5146)  
Activity ID: ENV20100001  
Permit No. KYG041742  
Leslie County, Kentucky

Dear Mr. Feltner:

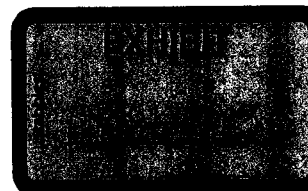
The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



*Kentucky*

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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (866-5146)    **AI ID:** 12952 **Activity ID:** ENV20100001

**County:** Leslie

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000012952():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000012952():**

**Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000012952():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000012952():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000012952():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 105176  
AI Name: ICG Hazard LLC (897-0446)  
Activity ID: ENV20100001  
Permit No. KYG046154  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0446)    **AI ID:** 105176    **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000105176():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000105176():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000105176():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000105176():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000105176():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: \_\_\_\_\_



Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 78356  
AI Name: ICG Hazard LLC - Coal Branch  
Mine (897-0448)  
Activity ID: ENV20100001  
Permit No. KY0106852  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



*Kentucky*

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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC - Coal Branch Mine (897-0448)      **AI ID:** 78356

**Activity ID:** ENV20100001      **County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000078356():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000078356():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000783560:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000783560:**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000783560):**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

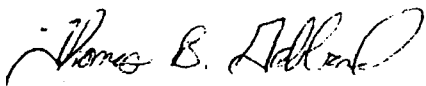
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 82682  
AI Name: ICG Hazard LLC (897-0454)  
Activity ID: ENV20100001  
Permit No. KYG044107  
Breathitt County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0454)    **AI ID:** 82682    **Activity ID:** ENV20100001

**County:** Breathitt

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000082682():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000082682():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000082682():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000082682():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000082682():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By:



Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 15186  
AI Name: ICG Hazard LLC (897-0455)  
Activity ID: ENV20100001  
Permit No. KYG045377  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0455)    **AI ID:** 15186 **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000015186():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000015186():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000015186():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000015186():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000151860):**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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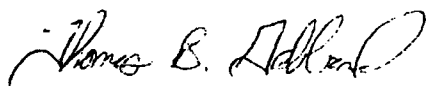
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By:



Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 14140  
AI Name: ICG Hazard LLC (897-0456)  
Activity ID: ENV20100001  
Permit No. KYG043989  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

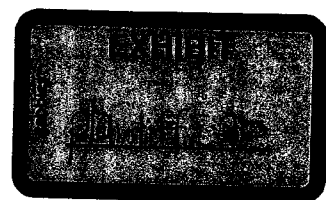
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0456)    **AI ID:** 14140 **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000014140():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000014140():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000141400:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000141400:**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000141400:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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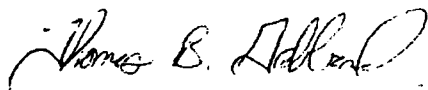
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: \_\_\_\_\_



Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 12591  
AI Name: ICG Hazard LLC (897-0482)  
Activity ID: ENV20100001  
Permit No. KYG040722  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0482)    **AI ID:** 12591 **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000012591():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000012591():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000012591():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000012591():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000012591():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]


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---

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 14033  
AI Name: ICG Hazard LLC (897-0483)  
Activity ID: ENV20100001  
Permit No. KYG044268  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0483)    **AI ID:** 14033 **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000014033():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000014033():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000014033():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000014033():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000140330:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By:



Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 99501  
AI Name: ICG Hazard LLC (897-0486)  
Activity ID: ENV20100001  
Permit No. KYG046274  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0486)    **AI ID:** 99501 **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1. Violation Description for Subject Item AIOO000099501():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000099501():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000099501():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000099501():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000995010:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

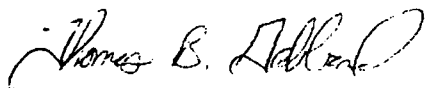
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

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200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13160  
AI Name: ICG Hazard LLC (897-0543)  
Activity ID: ENV20100001  
Permit No. KYG042314  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

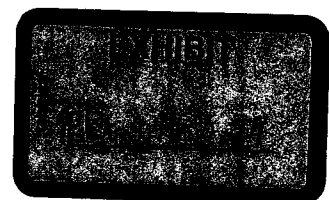
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-0543)    **AI ID:** 13160    **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000131160():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000131160():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000131160():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. \* Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000131160():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO00001311600:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

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www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 14796  
AI Name: ICG Hazard LLC (897-5118)  
Activity ID: ENV20100001  
Permit No. KYG044931  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-5118)    **AI ID:** 14796 **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000014796():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000014796():**

**Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000014796():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000014796():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000147960:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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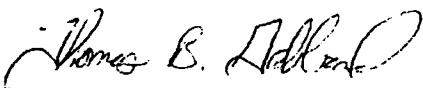
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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.

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Issued By:



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STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

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November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 39614  
AI Name: ICG Hazard LLC - Kentucky  
River Loading (897-8040)  
Activity ID: ENV20100001  
Permit No. KYG043089  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

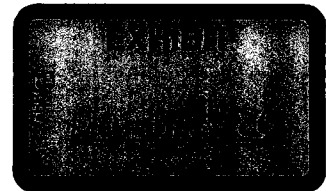
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

To: ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC - Kentucky River Loading (897-8040)      **AI ID:** 39614  
**Activity ID:** ENV20100001      **County:** Perry  
**Enforcement Case ID:**  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000396140:**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000396140:**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000039614():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000039614():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000396140):**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

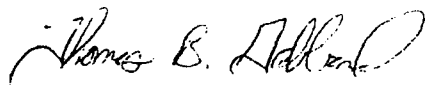
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By:

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13353  
AI Name: ICG Hazard LLC (897-8041)  
Activity ID: ENV20100001  
Permit No. KYG042693  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

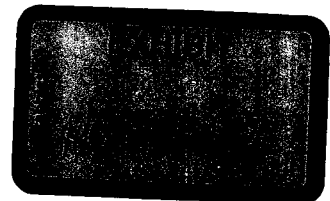
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (897-8041)    **AI ID:** 13353 **Activity ID:** ENV20100001

**County:** Perry

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000013353():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000013353():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000013353():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000013353():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody

kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO0000133530):**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

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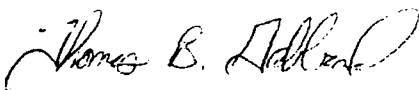
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: \_\_\_\_\_



Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.kentucky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13303  
AI Name: ICG Hazard LLC - Krypton  
Tipple (897-8043)  
Activity ID: ENV20100001  
Permit No. KYG042598  
Perry County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

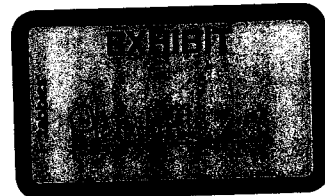
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC - Krypton Tipple (897-8043) **AI ID:** 13303 **Activity ID:** ENV20100001  
**County:** Perry  
**Enforcement Case ID:**  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000013303():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. Samples are collected by the ICG contract lab, Geological Sciences Laboratory (GSL), personnel. GSL labels the plastic sample bottle with masking tape and then writes the pond number on the sample container. No chains-of-custody are completed for any sample collection. The sample bottles are reused and relabeled with a fresh piece of masking tape. The samples are analyzed upon receipt at the lab. The analysis results are entered directly into the computer. No hard copies are kept. The computer data is backed up on a flash drive. No quality assurance or quality control procedures were followed. The lab did not have standard operating procedures. Tests were performed following the 17th edition of Standard Methods. Equipment calibration is not documented. No log books are kept. DMR data for the last three years was available electronically.

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

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000013303():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility is not being properly operated and maintained as required. Adequate laboratory controls and quality assurance procedures are not in place by either ICG Hazard or GSL. No log books are kept verifying proper QA/QC procedures. Chain-of-custody and bench sheet forms are not used. Neither calibration logs, equipment maintenance logs, reagent logs, nor standard operating procedures are maintained.

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

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000013303():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. According to lab personnel, the person who collects samples uses an old milk crate for sample transportation. This person was unavailable for interviewing.

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**4 Violation Description for Subject Item AIOO000013303():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. The facility has failed to collect samples in accordance with the monitoring requirements outlined in the permit. Samples are collected in the same plastic bottles each month and not always in the correct volume. Samples are not preserved until received at the lab and are not transported in ice from the site to the facility. The sampler was unavailable for interviewing. The sample storage refrigerator was also being used to hold food and drinks. No bench sheets or chains-of-custody



kept so we were unable to verify if samples were analyzed within the allowed holding times.

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

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**5 Violation Description for Subject Item AIOO000013303():**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis was not being performed according to 40 CFR Part 136. Sample analysis procedures are not being followed correctly for all parameters. According to John Ray, GSL owner, no written documentation of QA/QC or calibration procedures or analyses are, or have ever been, kept. Ph and conductivity field equipment are not approved by EPA.

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

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2]


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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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail

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STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 104602  
AI Name: ICG Hazard LLC (860-0454)  
Activity ID: ENV20100001  
Permit No. KYG0466357  
Knott County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



*Kentucky*

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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (860-0454)    **AI ID:** 104602    **Activity ID:** ENV20100001

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIO000000104602():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO00000104602():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO00000104602():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO00000104602():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]


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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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager

Issued By: 

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6515 3077  
Return Receipt Requested

Mr. William Feltner  
ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 83751  
AI Name: ICG Hazard LLC (860-0463)  
Activity ID: ENV20100001  
Permit No. KYG045985  
Knott County, Kentucky

Dear Mr. Feltner:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

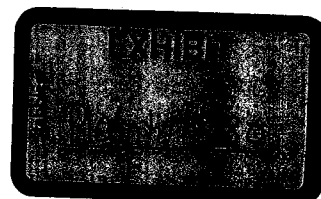
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Hazard, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Hazard LLC (860-0463)    **AI ID:** 83751 **Activity ID:** ENV20100001

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000083751():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are



followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO00000837510:**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO00000837510:**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000083751():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

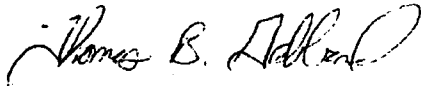
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By:

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6515 3077



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF ENFORCEMENT  
300 FAIR OAKS LANE  
FRANKFORT KENTUCKY 40601  
www.kentuckv.gov

November 29, 2010

Hand Delivered

ICG Hazard LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

Re: Notice of Violation  
AI ID: 14702  
AI Name: ICG Hazard LLC  
Activity ID: ENV20100003  
KPDES Permits: Multiple  
DSMRE Permits: Multiple

Dear Mr. Gibson:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facilities. Please review this Notice of Violation carefully.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at (502) 564-2150 extension 266.

Sincerely,

Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Division of Enforcement

Enclosure



*Kentucky*

An Equal Opportunity Employer M/F/D

**COMMONWEALTH OF KENTUCKY  
ENERGY and ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Enforcement**

**NOTICE OF VIOLATION**

To: ICG Hazard, LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

**AI Name:** ICG Hazard LLC (813-0293)      **AI ID:** 14702 – Multiple      **Activity ID:** ENV20100003

**County:** Multiple

**KPDES Permits / DSMRE Permits:**

KYG041123 (813-0291), KYG044802 (813-0293), KYG046206 (813-0315), KYG044753 (813-5026), KYG045542 (866-0295), KYG044107 (897-0454), KY0106852 (897-0448), KYG046154 (897-0446), KYG041742 (866-5146), KYG043540 (866-0281), KYG043595 (813-0296), KYG046093 (813-0272), KYG044019 (813-0292), KYG046108 (813-0294), KYG044019 (813-5025), KYG045985 (860-0463), KYG040737 (860-0445), KYG043598 (813-8019), KY0023086 (813-8018), KYG046357 (860-0454), KYG046437 (860-0429), YG044268 (897-0483), KYG043989 (897-0456), KYG040722 (897-0482), KYG046274 (897-0486), KYG042314 (897-0543), KYG044931 (897-5118), KYG042693 (897-8041)

**Date(s) Violation(s) Observed:** 11/24/2010

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

**1 Violation Description for Subject Item AIOO0000014702():**

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 or 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:**

ICG Hazard violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit the required monitoring data for conductivity on the Discharge Monitoring Reports (DMRs) for August 2009 and September 2009. Conductivity data was missing for for the following permits and outfalls:

- KYG046206 (813-0315):      Outfall 007 (DNR Pond 107).
- KYG044753 (813-5026):      Outfall 1268.
- KYG045542 (866-0295):      Outfalls BP2, S1, S2, and S6.
- KYG046154 (897-0446):      Outfalls SS1, SS2, and SS4.
- KYG043540 (866-0281):      Outfalls 1246, 1247, 1376, 1400, 1402, 1407, 1801, 1802, 1805A, 1806, 1807, 1809.
- KYG044268 (897-0483):      Outfalls 3,6,7,10,11,12

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

2 Violation Description for Subject Item AIOO0000014702():

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 or 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:**

ICG Hazard violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to comply with the permitted limit specified in the following KPDES permits:

- KYG046206 (813-0315), Outfall 107: The permitted limits for Total Recoverable Iron (TRFe) are a monthly average of 3.0 mg/L and a daily maximum of 4.0 mg/L. ICG Hazard reported a daily maximum of 46 mg/L for January 2010. *(NOTE: If 2 samples taken for January 2010, the monthly average should be higher than reported and also exceed the permitted limit. The reported result was 0.4 mg/L.)*
- KYG045542 (866-0295), Outfall S2: The permitted limits for Total Recoverable Iron (TRFe) are a monthly average of 3.0 mg/L and a daily maximum of 4.0 mg/L. ICG Hazard reported a monthly average of 26.21 mg/L and a daily maximum of 52 mg/L for the sample dated 03/18/2008.
- KYG045542 (866-0295), Outfall S6: The permitted limits for Total Recoverable Manganese (TRMn) are a monthly average of 2.0 mg/L and a daily maximum of 4.0 mg/L. ICG Hazard reported a monthly average of 29.255 mg/L and a daily maximum of 58 mg/L for the sample dated 03/04/2008.

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

3 Violation Description for Subject Item AIOO0000014702():

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 or 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:**

ICG Hazard violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to comply with the terms and conditions of KPDES Permit No. KYG044268 (897-0483), for Total Recoverable Iron (TRFe) at Outfall #11 for June 2010. The permitted limits for TRFe are a monthly average of 3.0 mg/L and a daily maximum of 4.0 mg/L. The reported result was a daily maximum of 61 mg/L.

ICG Hazard violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to comply with the terms and conditions of KPDES Permit No. KYG044268 (897-0483), for Total Suspended Solids (TSS) at Outfall #6 for June 2010. The permitted limits for TSS are a monthly average of 35.0 mg/L and a daily maximum of 70.0 mg/L. The reported result was a monthly average of 221 mg/L.

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

**4 Violation Description for Subject Item AIOO0000014702():**

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 or 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:**

ICG Hazard violated 40 CFR 122.41(k), as referenced by 401 KAR 5:065, Section 2(1), by failing to comply with the signatory requirements for the DMR certification as specified in 40 CFR 122.22(b). The DMRs listed below had unsigned certification statements:

- KYG041123 (813-0291): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG044802 (813-0293): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG046206 (813-0315): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG044753 (813-5026): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG045542 (866-0295): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG044107 (897-0454): 2<sup>nd</sup> Quarter (April through June) 2010
- KY0106852 (897-0448): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG046154 (897-0446): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG041742 (866-5146): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG043540 (866-0281): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG043540 (866-0281): 3<sup>rd</sup> Quarter (July through September) 2008
- KYG040737 (860-0445): 2<sup>nd</sup> Quarter (April through June) 2010
- KY0023086 (813-8018): Outfall PP5E: 3<sup>rd</sup> Quarter (July through September) 2009
- KYG042693 (897-8041): 2<sup>nd</sup> Quarter (April through June) 2010
- KYG042314 (897-0543): 2<sup>nd</sup> Quarter (April through June) 2010

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

**5 Violation Description for Subject Item AIOO0000014702():**

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 or 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:**

ICG Hazard violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit Discharge Monitoring Reports (DMRs) for particular Outfalls for numerous KPDES permit numbers, pertaining to certain periods of time. Below is a list of the Permit numbers and what specific DMRs were not submitted.

KYG045542 (866-0295)	for Outfall 006 (S6) for the 1 <sup>st</sup> Quarter (January - March) 2009.
KY0106852 (897-0448)	1 <sup>st</sup> Quarter (January - March) 2008 4 <sup>th</sup> Quarter (October - December) 2008 4 <sup>th</sup> Quarter (October - December) 2009
KYG046154 (897-0446)	2 <sup>nd</sup> Quarter (April - June) 2009
KYG046093 (813-0272)	4 <sup>th</sup> Quarter (October - December) 2009 1 <sup>st</sup> & 2 <sup>nd</sup> Quarters (January - June) 2010
KYG044019 (813-0292)	3 <sup>rd</sup> Quarter (July - September) 2008
KYG046108 (813-0294)	1 <sup>st</sup> & 3 <sup>rd</sup> Quarters (Jan - Mar / July - Sept) 2008 2 <sup>nd</sup> Quarter (April - June) 2009
KYG043595 (813-0296)	2 <sup>nd</sup> Quarter (April - June) 2010
KYG044091 (813-5025)	3 <sup>rd</sup> Quarter (July - September) 2008 Outfall BP-1 for 1 <sup>st</sup> , 2 <sup>nd</sup> & 3 <sup>rd</sup> Quarters (Jan - Sept) 2009 4 <sup>th</sup> Quarter (October - December) 2009
KYG046357 (860-0454)	3 <sup>rd</sup> & 4 <sup>th</sup> Quarters (July - December) 2009
KYG040737 (860-0445)	1 <sup>st</sup> Quarter (January - March) 2009
KYG043598 (813-8019)	2 <sup>nd</sup> & 3 <sup>rd</sup> Quarters (April - September) 2009
KY0023086 (813-8018)	4 <sup>th</sup> Quarter (October - December) 2008 1 <sup>st</sup> Quarter (January - March) 2009
KYG044268 (897-0483)	1 <sup>st</sup> , 2 <sup>nd</sup> , 4 <sup>th</sup> Quarters (Jan-June / Oct-Dec) 2008 Outfall #13 3 <sup>rd</sup> Quarter (July - September) 2009 4 <sup>th</sup> Quarter (October - December) 2009
KYG043989 (897-0456)	Outfall #049 2 <sup>nd</sup> Quarter (April - June) 2008 2 <sup>nd</sup> , 3 <sup>rd</sup> & 4 <sup>th</sup> Quarters (April - December) 2009
KYG040722 (897-0482)	1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup> Quarters (January - December) 2008
KYG046274 (897-0486)	1 <sup>st</sup> & 2 <sup>nd</sup> Quarters (January - June) 2010
KYG044931 (897-5118)	1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup> Quarters (January - December) 2008 Outfall # BS-1 4 <sup>th</sup> Quarter (October - December) 2009
KYG042693 (897-8041)	1 <sup>st</sup> Quarter (January - March) 2009
KYG042111 (897-7012)	All of 2008, 2009, 2010
KYG046437 (860-0429)	4 <sup>th</sup> Quarter (October - December) 2008 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup> Quarters (January - December) 2009 1 <sup>st</sup> & 2 <sup>nd</sup> Quarters (January - June) 2010

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

**6 Violation Description for Subject Item AIOO0000014702():**

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 or 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:**

ICG Hazard violated 401 KAR 5:065, Section 2(1), which cites 40 CFR 122.41(k) by failing to comply with the signatory requirements for the DMR certification as specified in 40 CFR 122.22(b). DMRs shall be signed by a corporate officer or designee having responsibility for the overall operation of the regulated facility.

The Discharge Monitoring Reports (DMRs) for KPDES Permit No. KYG045985 (860-0463), for Outfalls 101 & 102, for March of 2008, were signed by Jody Salisbury of S&S Water Monitoring, Inc.

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

7 Violation Description for Subject Item AIOO0000014702():

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 or 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:**

ICG Hazard, LLC violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit all data as required for Monitoring and Reporting, as required by the KPDES Coal General Permit.

A total of two (2) samples shall be collected (if discharge occurs) each calendar month during a period of discharge resulting from a precipitation or pumpage event for all active mining areas and post mining underground drainage. Should either or both discharges be controlled discharges, then the requirement of Section B shall apply.

If only one (1) discharge occurs during the calendar month, then the permittee must provide appropriate documentation.

Below are the specific violations found:

- KYG040722 (897-0482): Outfalls Pond 1 & Pond 13: Only 1 sample was reported for January, April, and July of 2009. NO samples were reported for February, March, May, June, August, and September of 2009. Appropriate documentation was not attached to the DMRs.
- KYG044931 (897-5118): Outfall 008: Only 1 sample was reported for January, April and July of 2009. NO samples were reported for February, March, May, June, August and September of 2009. Appropriate documentation was not attached to the DMRs.
- KYG044019 (813-0292): Outfall 1249: Only 1 sample was reported for January, April and October of 2008; and January, April, July and October of 2009. NO samples were reported for February, March, May, June, November and December of 2008; and for February, March, May, June, August, September, November and December of 2009. Appropriate documentation was not attached to the DMRs.

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

**8 Violation Description for Subject Item AIOO0000014702():**

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 or 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:**

ICG Hazard, LLC violated 401 KAR 5:065, Section 2(1), which cites 40 CFR 122.41(1)(4)(i), by failing to accurately report monitoring results on Discharge Monitoring Reports (DMRs). A comparison of laboratory analysis bench sheets (LABSs) and DMRs found discrepancies between data reported on the LABSs and the data entered on the DMRs for certain time periods reviewed. Data reported involved either identical data, or conflicting data, caused by incorrect sampling reporting errors, or shared Outfalls for different permits, or clerical transcription errors and confusion (human error) in completing the DMRs. KDEP discovered these violations in the following permits listed below.

KYG041123 (813-0291) and KYG044802 (813-0293):

Outfall 1269: 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> 2008 and 4<sup>th</sup> Qtr 2009

Identical data. Different Ponds. Transposition error.

KYG046206 (813-0315) and KYG044753 (813-5026)

Outfalls 107 & 1268: 1<sup>st</sup> & 2<sup>nd</sup> Qtrs 2008

Conflicting Data. Shared Pond with different names. Took too many samples. All samples were not reported on DMRs.

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

ICG Hazard, LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

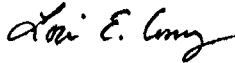
**\*\*NOTE\*\*** *Attached is a complete list of ICG Hazard Permits that were reviewed.*

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:

Department for Environmental Protection  
Division of Enforcement  
300 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-2150 extension 266 (8:00 AM – 4:30 PM)  
Ms. Lori Conway, Enforcement Specialist



Issued By:

Ms. Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Date: November 29, 2010



Issued By:

Mark J. Cleland, M.P.A., R.E.H.S.  
Environmental Control Manager  
Compliance and Operations Branch  
Date: November 29, 2010

How Delivered: Hand Delivered

ICG Hazard LLC

11/25/2010

PERMITS REVIEWED

	DNR #	Old or New DNR#	KPDES #	AI#	
1	813-0272		KYG046093	110004	
2	813-0291		KYG041123	12720	
3	813-0292		KYG044019	14210	
4	813-0293		KYG044802	14702	
5	813-0294		KYG046108	97636	
6	813-0296		KYG043595	13894	
7					
8	813-0315		KYG046206	82800	
9	813-0323		KYG046436	103753	** Not on NOV
11	813-0331		KYG046401 old	105289	** Not on NOV
12	813-5025	new 813-7026 (813-0292)	KYG044019 (KYG044403)	14210	
13	813-5026		KYG044753	14668	
14	813-7026	as 5025 / 0292	KYG044019	14210	* No DMRs required
15	813-7033		KYG043740	13991	* No DMRs required
16	813-8018		KY0023086	412	
17	813-8019		KYG043598	13896	
18	860-0416	was 860-0403	KYG046023	101519	*No DMRs required
19	860-0429		KYG046437	101567	
20	860-0445		KYG040737	12590	
21	860-0454		KYG046357	104602	
22	860-0462	was 860-0442	KYG045818	35066	** Not on NOV
23	860-0463		KYG045985	83751	
24	860-0471	was 860-0408	KYG045906	105996	* No DMRs required
25	860-7009				* No DMRs required
26	860-7011				* No DMRs required
27	866-0281		KYG043540	13858	
28	866-0295		KYG045542	15350	
29	866-5137				** Not on NOV
30	866-5146		KYG041742	12952	
31	866-9010		KYG041819	12982	** Not on NOV
32	897-0446		KYG046154	105176	

33	897-0448		KY0106852	78356	
34	897-0454		KYG044107	82682	
35	897-0455		KYG045377	15186	** Not on NOV
36	897-0456		KYG043989	14140	
38	897-0482		KYG040722	12591	
39	897-0483		KYG044268	14033	
41	897-0486		KYG046274	99501	
42	897-0543		KYG042314	13160	
43	897-5118		KYG044931	14796	
44	897-7012		KYG042111	13077	* No DMRs required
45	897-8040		KYG043089	39614	** Not on NOV
46	897-8041		KYG042693	13353	
47	897-8043		KYG042598	13303	** Not on NOV

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF ENFORCEMENT  
300 FAIR OAKS LANE  
FRANKFORT KENTUCKY 40601  
www.kentuckv.gov

November 29, 2010

ICG Hazard LLC  
Attn: Don Gibson  
1021Tori Dr  
Hazard, KY 41701

Re: Notice of Violation  
AI ID: 13991  
AI Name: ICG Hazard LLC  
Activity ID: ENV20100001  
KPDES Permits: Multiple  
DMRE Permits: Multiple

Dear Mr. Gibson:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facilities. Please review this Notice of Violation carefully.

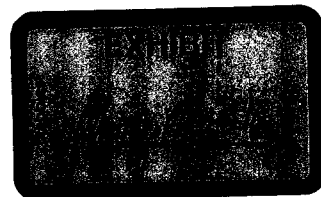
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at (502) 564-2150 extension 266.

Sincerely,

A handwritten signature in cursive script that reads "Lori E. Conway".

Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Division of Enforcement

Enclosure



**COMMONWEALTH OF KENTUCKY  
ENERGY and ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Enforcement**

**NOTICE OF VIOLATION**

**To:** ICG Hazard LLC  
Attn: Don Gibson  
1021Tori Dr  
Hazard, KY 41701

**AI Name:** ICG Hazard LLC (813-7033)      **AI ID:** 13991 – Multiple      **Activity ID:** ENV20100001  
**County:** Multiple  
**KPDES Permits / DMRE Permits:**  
**KYG043740 (813-7033), KYG044235 (866-5137), KYG041819 (866-9010), KYG042111 (897-7012)**

**Date(s) Violation(s) Observed:** 12/02/2010

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

- 1** Violation Description for Subject Item AIOO0000013991():  
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 or 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:**

ICG Hazard violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit Discharge Monitoring Reports (DMRs) for the following KPDES permit numbers, for certain periods of time. Below is a list of the permit numbers and what specific DMRs were not submitted.

**KYG043740 (813-7033):** All of 2008 (January - December; all of 2009 (January through December); and 1st & 2nd Quarters of 2010 (January through June).

**KYG044235 (866-5137):** All of 2008 (January - December; all of 2009 (January through December); and 1st & 2nd Quarters of 2010 (January through June).

**KYG041819 (866-9010):** All of 2008 (January - December; all of 2009 (January through December); and 1st & 2nd Quarters of 2010 (January through June).

**KYG042111 (897-7012):** All of 2008 (January - December; all of 2009 (January through December); and 1st & 2nd Quarters of 2010 (January through June).

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

ICG Hazard shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

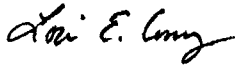
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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.

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

Department for Environmental Protection  
Division of Enforcement  
300 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-2150 extension 266 (8:00 AM – 4:30 PM)  
Ms. Lori Conway, Enforcement Specialist



Issued By:

---

Ms. Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Date: November 29, 2010



Issued By:

---

Mark J. Cleland, M.P.A., R.E.H.S.  
Environmental Control Manager  
Compliance and Operations Branch  
Date: November 29, 2010

How Delivered:





STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
875 S Main St  
London, KY 40741-1902  
www.kentucky.gov  
November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott County, LLC  
1021 Tori Dr  
Hazard, KY 41701

Re: Performance Audit Inspection  
AI ID: 82715  
AI Name: ICG Knott County, LLC (860-5271)  
Activity ID: ENV20100001  
Permit No. KYG045805  
Knott County, KY

Dear Sir:

Attached for your information and records is a copy of the Performance Audit Inspection performed at ICG Knott County, LLC (860-5271) on October 14, 2010.

As a result of the inspection, the Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in black ink that reads "Kimberly Farris".

Ms. Kimberly Farris  
Environmental Scientist  
Division of Water

Enclosure  
CC: Hazard Regional Office  
Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Knott County, LLC  
1021 Tori Dr  
Hazard, KY 41701

**AI Name:** ICG Knott County LLC (860-5271) **AI ID:** 82715 **Activity ID:** ENV20100001  
**County:** Knott  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO00000827150:**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(j)(2)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by the permittee's contract laboratory, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" it does not appear to be used consistently. The samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not identify when the sample was collected, the name(s) of those who received the sample(s) in the lab, nor the time and date the sample was received in the lab. The "Pond Analysis Lab Sheet" which is essentially what S & S was using as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the bench sheets nor lab log books identify the method used for analysis. There is no documentation of calibration, maintenance records, the use of duplicates of spikes or other quality control (QC) measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan (CAP) to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP) along with copies of the current chains of custody and bench sheets as well as the associated analytical data for sampling and analysis performed for the month of October 2010 shall be included along with the written notification. [401 KAR 5:065 Section 2(1)].

## **2 Violation Description for Subject Item AIOO00000827150:**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(e)]

### **Description of Non Compliance:**

The facility is not properly operated and maintained as required. Laboratory controls are deficient due to inadequate quality assurance and quality control (QA/QC). Although most of the required analyses appear to be performed by approved methodologies (compliant with 40 CFR part 136), there is no "back-up" data to support the information contained on the DMRs. Deficiencies include the absence of chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, or precipitation logs, no lab SOP manual, etc. It appears S&S using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The permittee continually and consistently reports the Acidity concentration for all discharges, from all ponds, for all DMRs as 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter "BDL" (Below Detection Limit) into the appropriate space for Acidity on the DMR form. The Acidity concentration was initially calculated as 8.4 mg/l, however with the decimal point error, the actual concentration of Acidity was 84 mg/l (DEP's lab analysis determined the acidity to be 22.5 mg/l). These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee shall, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. Samples collected for purposes of demonstrating permit compliance shall be analyzed in accordance with a laboratory Standard Operating Procedures (SOP) plan, using approved methodologies for all analyses. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the required time period. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet form, maintenance, calibration and precipitation logs, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

[401 KAR 5:065 Section 2(1)]

## **3 Violation Description for Subject Item AIOO00000827150:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(e)]

### **Description of Non Compliance:**

The facility has failed to comply with the effluent limitations contained in the permit. DMRs reviewed from January 2008 to present record all parameters within permit limits. The DMRs for the 3rd quarter 2009 do not contain results for conductivity. All DMRs record acidity sample results as 0. The lowest detection limit required by the test method is <10 mg/l and should be reported as BDL, below detection limit. Other DMR deficiencies include:

2nd quarter 2009: Bench sheets obtained from S&S Water Monitoring Friday October 15, 2010, do not

match the submitted DMR. The DMR results match the 1st quarter DMR results.  
1st and 2nd quarter 2010: facility and receiving water fields are left blank.  
All required information must be submitted on the DMRs.

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

The permittee shall comply with effluent limitations and all conditions of the KPDES permit. All areas of the DMR must be completed. Any exceedances or unusual conditions for that monitoring period shall be identified in the comments section of the DMR. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit [401 KAR 5:065 Section 2(1)].

**4 Violation Description for Subject Item AIOO00000827150:**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1), as in 40 C.F.R. 122.41(j)(4)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did not observe actual collection of samples at the ICG Knott Co mine site. DOW did observe that S & S used the proper sample bottles and preservatives; however, S&S did not have a log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW observed some samples were delivered to the lab on 10/14/2010 (client coal company unknown) contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided S & S with a sample of a temperature log for the refrigerator. Due to deficiencies in record keeping DOW could not determine whether samples were analyzed within the required holding times. It appears S & S has used an unapproved test methodology, at least some of the time, to analyze Total Suspended Solids. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee shall monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. As part of the corrective action plan, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and shall provide a copy of the Standard Operating Procedure (SOP) plan utilized by its contract lab and a description of the QA/QC protocols being implemented by the laboratory. The Cap and supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)].

**5 Violation Description for Subject Item AIOO00000827150:**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and KRS 224 and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. [401 KAR 5:065 Section 2, as in 40 C.F.R. 122.41(j)(4)]

**Description of Non Compliance:**

The facility has failed to comply with the terms of the permit. Sample collection and analysis is not being performed in accordance with 40 CFR Part 136. Sample analysis procedures are not followed correctly for all parameters. No written documentation of sample collection, transportation, analyses, calibration procedures or quality assurance/quality controls is maintained.

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

Comply with all conditions of the KPDES permit: Comply with the effluent limits specified in the KPDES Permit; eliminate and prevent adverse impact to the receiving stream; and ensure that samples collected to demonstrate permit compliance are collected and analyzed using adequate laboratory controls and

appropriate quality assurance quality control procedures. The permittee shall comply with all recordkeeping requirements specified in the permit by verifying that the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent QA/QC protocols are followed for the sampling and analysis of the parameters required for the self-monitoring program. The permittee shall also verify that samples collected to demonstrate permit compliance are analyzed in accordance with a laboratory Standard Operating Procedures (SOP) plan and using approved methodologies for all analyses. By December 15, 2010, the permittee shall submit a corrective action plan that the permittee is complying with all requirements of its permit, and that adequate records and supporting documentation for its sample analyses are generated and maintained for the time period required by the KPDES and DNR Permits. The supporting documentation shall include a copy of the Standard Operating Procedure (SOP) plan utilized by the contract lab and identification of the QA/QC protocols implemented by the lab. The facility shall also provide the analytical results for sampling conducted in October 2010 and include the supporting documentation, chains of custody, bench sheets and lab reports. [401 KAR 5:065 Section 2]

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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.

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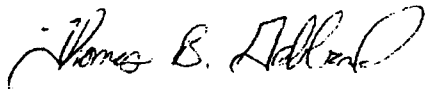
If you have questions or need further information, write or call the undersigned:

Division of Water  
Central Office  
200 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Ms. Kimberly Farris, Environmental Scientist



Issued By:

Ms. Kimberly Farris, Environmental Scientist  
Date: November 29, 2010



Issued By:

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified

Certified/Registered # 7008 1830 0003 6511 0018



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13731  
AI Name: ICG Knott Co LLC (860-0414)  
Activity ID: ENV20100002  
Permit No. KYG043345  
Knott County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

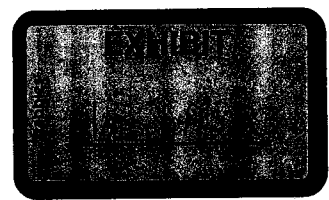
Sincerely,

A handwritten signature in cursive script, reading "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Knott Co LLC (860-0414) **AI ID:** 13731 **Activity ID:** ENV20100002

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000013731():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO00000137310):**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO00000137310):**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.



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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000013731():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

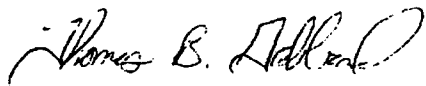
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6511 0018



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13300  
AI Name: ICG Knott Co LLC (860-5267)  
Activity ID: ENV20100002  
Permit No. KYG042589  
Knott County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Knott Co LLC (860-5267) **AI ID:** 13300 **Activity ID:** ENV20100002

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO00000133000:**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000013300():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000013300():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000013300():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

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---

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6511 0018



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 82695  
AI Name: ICG Knott Co LLC (860-5268)  
Activity ID: ENV20100002  
Permit No. KYG042754  
Knott County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

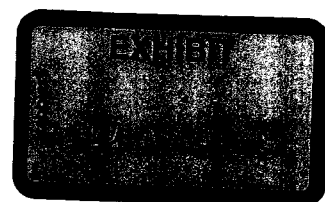
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson





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

**NOTICE OF VIOLATION**

**To:** ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** Knott Co Mining Co     **AI ID:** 82695     **Activity ID:** ENV20100002  
**County:** Knott  
**Enforcement Case ID:**  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIO0000082695():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000082695():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000082695():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000082695():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

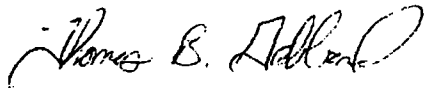
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6511 0018



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13922  
AI Name: Knott Co Mining Co  
Activity ID: ENV20100002  
Permit No. KYG043631  
Knott County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** Knott Co Mining Co      **AI ID:** 13922 **Activity ID:** ENV20100002

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000013922():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000013922():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000013922():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO00000139220):**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and



supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

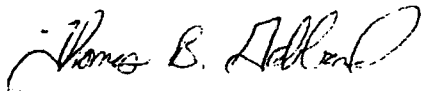
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6511 0018



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 105052  
AI Name: ICG Knott Co LLC (860-5312)  
Activity ID: ENV20100001  
Permit No. KYG046395  
Knott County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Knott Co LLC (860-5312)    **AI ID:** 105052    **Activity ID:** ENV20100001  
**County:** Knott  
**Enforcement Case ID:**  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIO0000001050520:**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO00000105052():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO00000105052():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO00000105052():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

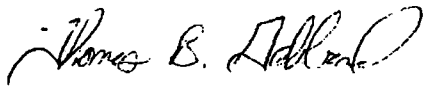
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7008 1830 0003 6511 0018



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 2528  
AI Name: ICG Knott Co LLC (860-8012)  
Activity ID: ENV20100002  
Permit No. KY0094285  
Knott County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Knott Co LLC (860-8012) **AI ID:** 2528 **Activity ID:** ENV20100002

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000002528():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are



followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000002528():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000002528():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIO000002528():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

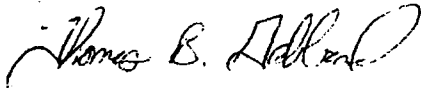
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If you have questions or need further information, write or call the undersigned:

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6511 0018



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7008 1830 0003 6511 0018  
Return Receipt Requested

ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 14844  
AI Name: ICG Knott Co LLC (860-9011)  
Activity ID: ENV20100002  
Permit No. KYG045000  
Knott County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG Knott, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG Knott Co LLC (860-9011) **AI ID:** 14844 **Activity ID:** ENV20100002

**County:** Knott

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000014844():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000014844():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000014844():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000014844():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

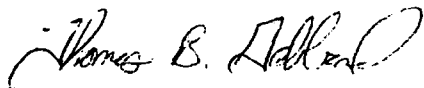
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If you have questions or need further information, write or call the undersigned:

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager  
Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7008 1830 0003 6511 0018





STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF ENFORCEMENT  
300 FAIR OAKS LANE  
FRANKFORT KENTUCKY 40601  
[www.kentucky.gov](http://www.kentucky.gov)

November 29, 2010

Hand Delivered

ICG Knott Co LLC  
Attn: Don Gibson  
1021 Tori Dr  
Hazard, KY 41701

Re: Notice of Violation  
AI ID: 82715  
AI Name: ICG Knott Co LLC  
Activity ID: ENV20100003  
KPDES Permits: Multiple  
DSMRE Permits: Multiple  
Knott County, KY

Dear Mr. Gibson:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facilities. Please review this Notice of Violation carefully.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at (502) 564-2150 extension 266.

Sincerely,

A handwritten signature in cursive script that reads "Lori E. Conway".

Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Division of Enforcement

Enclosure

The word "Kentucky" in a stylized, bold font with a horse head silhouette integrated into the letter "y".



**COMMONWEALTH OF KENTUCKY**  
**ENERGY and ENVIRONMENT CABINET**  
**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
**Division of Enforcement**

**NOTICE OF VIOLATION**

To: ICG Knott Co LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

**AI Name:** ICG Knott Co LLC      **AI ID:** 82715 (Multiple)    **Activity ID:** ENV20100003  
**County:** Knott

**KPDES Permit / DSMRE Permit:**

KYG043345 (860-0414), KYG045265 (860-0441), KYG042589 (860-5267), KYG042754 (860-5268),  
KYG043631 (860-5269), KYG045805 (860-5271), KYG045360 (860-5279), KYG044728 (860-5296),  
KYG044982 (860-5297), KYG046395 (860-5312), KYG046374 (860-5324), KY0094285 (860-8012),  
KYG041041 (860-8014), KYG045000 (860-9011)

**Date(s) Violation(s) Observed:** 11/23/2010

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

**1 Violation Description for Subject Item AIO0000082715():**

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 or 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:**

ICG Knott County violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(l)(4)(i), by failing to accurately report monitoring results on Discharge Monitoring Reports (DMRs). A comparison of laboratory analysis bench sheets (LABSs) and the DMRs found discrepancies between data reported on the LABSs and the data entered on the DMRs for the 2<sup>nd</sup> Quarter (April through June) 2009. Data reported was identical to the data reported for the 1<sup>st</sup> Quarter (January through March) 2009. Some DMRs had dates that were hand corrected, due to incorrect data transfer onto the DMRs (template form being reused), which through investigation, was found to be a result of human error. Review of the LABSs for 2<sup>nd</sup> Quarter 2009 did not discover any KPDES permit limit violations. KDEP discovered this violation for the following KPDES permits and outfalls:

- KYG043631 (860-5269):      Outfall 1 (36 data entries)-signature date changed.
- KY0094285 (860-8012):      Outfall 1 (36 data entries)-signature date changed.
- KY0094285 (860-8012):      Outfall 5 (35 data entries).
- KYG045000 (860-9011):      Outfall K.P.D.E.S. #1 (34 data entries).
- KYG045000 (860-9011):      Outfall #1 (32 data entries)-signature date changed.
- KYG045805 (860-5271):      Outfall K.P.D.E.S. #2 (33 data entries)-date changed.
- KYG045805 (860-5271):      Outfall K.P.D.E.S. #5 (34 data entries).
- KYG045805 (860-5271):      Outfall #001 (35 data entries).
- KYG045805 (860-5271):      Outfall #7 (34 data entries).
- KYG042754 (860-5268):      Outfalls #1 (36 data entries)-signature date changed.
- KYG042754 (860-5268):      Outfalls MD-2 (35 data entries).

- KYG042589 (860-5267): Outfall K.P.D.E.S. #2 (32 data entries).
- KYG043345 (860-0414): Outfall #1 (35 data entries) –signature dates changed.

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

ICG Knott Co, LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

**2 Violation Description for Subject Item AIOO0000082715():**

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 or 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:**

ICG Knott County violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(k)(2). The KDEP requested copies of laboratory analysis bench sheets (LABSs) for KPDES Permit No. KYG045805 (DNR Permit No. 860-5271) from S&S Water Analysis, Inc. S&S is ICG Knott County’s contract laboratory. S&S submitted copies of LABSs for 1<sup>st</sup> and 2<sup>nd</sup> Quarters 2009 twice: the first time soon after the initial request on 10/14/2010, and the second time on 10/27/2010. The LABSs for the 2<sup>nd</sup> Quarter 2009 showed different data between the two submittals. S & S Monitoring submitted the second set of data without coordinating through ICG.

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

ICG Knott Co, LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

**3 Violation Description for Subject Item AIOO0000082715():**

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 or 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:**

ICG Knott County violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit the required monitoring data for conductivity on the Discharge Monitoring Reports (DMRs) for August 2009 and September 2009. Conductivity data was missing for for the following permits and outfalls:

- KYG043631 (860-5269): Outfall #1
- KYG042754 (860-5268): Outfalls #1 and MD-2
- KYG045360 (860-5279): Outfall 01

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

ICG Knott Co, LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

**4 Violation Description for Subject Item AIOO0000082715():**

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 or 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:**

ICG Knott County violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(l)(4)(i), by failing to accurately report monitoring results on Discharge Monitoring Reports (DMRs). A comparison of laboratory analysis bench sheets (LABSs) and the DMRs found discrepancies between data reported on the LABSs and the data entered on the DMRs. In all instances, a violation was reported on the DMR when the LABS indicated that analysis result was in compliance. Below are the specific findings:

- KY0094285, Outfall 001 (DNR Pond 1): The LABS reported Total Recoverable Manganese (TRMn) as 1.27 mg/L daily maximum. The DMR reported TRMn as 117 mg/L daily maximum.

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

ICG Knott Co, LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

**5 Violation Description for Subject Item AIOO0000082715():**

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 or 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:**

ICG Knott County violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit Discharge Monitoring Reports (DMRs) for the following permits and outfalls:

- KYG045265: Outfall SSB, SSE: 2<sup>nd</sup> Quarter (April through June) 2009.
- KYG044728: Outfall OOE, OOB: 4<sup>th</sup> Quarter (October through December) 2009.
- KYG046395: Outfall (all): All 4 Quarters (January through December) 2008, 2009.
- KYG046374: Outfall (all): All 4 Quarters (January through December) 2008, 2009.
- KYG046374 Outfall (all): 1<sup>st</sup> & 2<sup>nd</sup> Quarters (January through June) 2010.

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

ICG Knott Co, LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

**6 Violation Description for Subject Item AIOO0000082715():**

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 or 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:**

ICG Knott County violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit all data as required for Monitoring and Reporting, as required by the KPDES Coal General Permit.

A total of two (2) samples shall be collected (if discharge occurs) each calendar month during a period of discharge resulting from a precipitation or pumpage event for all active mining areas and post mining underground drainage. Should either or both discharges be controlled discharges, then the requirement of Section B shall apply.

If only one (1) discharge occurs during the calendar month, then the permittee must provide appropriate documentation.

Below are the specific violations found:

- KYG045265: Outfall 002: Only 1 sample was reported for January, February and March of 2010. Appropriate documentation was not attached to the DMRs.
- KYG044728: Outfall 001: Only 1 sample was reported for December of 2009. Appropriate documentation was not attached to the DMRs.
- KYG044982: Outfall #1: Only 1 sample was reported for June 2008; October 2008; November 2009; February 2010. NO samples were reported for October 2009. Appropriate documentation was not attached to the DMRs.
- KYG041041: Outfall 030: Only 1 sample was reported for October 2008. Appropriate documentation was not attached to the DMRs.

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

ICG Knott Co, LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

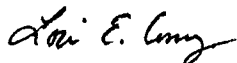
**\*\* NOTE \*\*** *Attached is a complete list of ICG Hazard Permits that were reviewed.*

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:

Department for Environmental Protection  
Division of Enforcement  
300 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-2150 extension 266 (8:00 AM – 4:30 PM)  
Ms. Lori Conway, Enforcement Specialist



Issued By:

Ms. Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Date: November 29, 2010



Issued By:

Mark J. Cleland, M.P.A., R.E.H.S.  
Environmental Control Manager  
Compliance and Operations Branch  
Date: November 29, 2010

How Delivered: Hand Delivered

11/23/2010

ICG Knott Co, LLC

Permits Reviewed

	DNR #	Old or New DNR #	KPDES #	AI#	
1	860-0414		KYG043345	13731	
2	860-0441		KYG045265	82705	
3	860-5267		KYG042589	13300	
4	860-5268		KYG042754	82695	
5	860-5269		KYG043631	13922	
6	860-5270		KYG044259	14329	NO DMRs required
7	860-5271		KYG045805	82715	
8	860-5277		KYG046392	105044	NEW - no DMRs yet
9	860-5279		KYG045360	82720	
10	860-5296		KYG044728	82703	
11	860-5297		KYG044982	82704	
12	860-5298		KYG045973	82718	** No violations
13	860-5312		KYG046395	105052	
14	860-5324		KYG046374	104773	
15	860-8012		KY0094285	2528	
16	860-8014		KYG041041	12691	
17	860-9011		KYG045000	14844	
18	898-8147	* Not theirs anymore			** No violations



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7007 0710 0004 2989 2530  
Return Receipt Requested

ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 82942  
AI Name: ICG East KY LLC (880-0179)  
Activity ID: ENV20100001  
Permit No. KYG046183  
Martin County, Kentucky

Dear Sir:

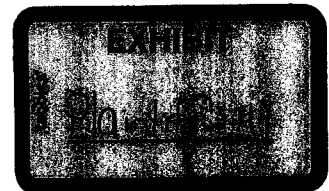
The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson





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

**NOTICE OF VIOLATION**

**To:** ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG East KY LLC (880-0179) **AI ID:** 82942 **Activity ID:** ENV20100001

**County:** Martin

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000082942():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000082942():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000082942():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000082942():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

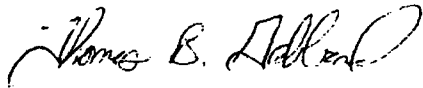
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7007 0710 0004 2989 2530



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7007 0710 0004 2989 2530  
Return Receipt Requested

ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 13736  
AI Name: ICG East KY LLC (898-0735)  
Activity ID: ENV20100001  
Permit No. KYG045173  
Pike County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas B. Gabbard".

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



*Kentucky*

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

**NOTICE OF VIOLATION**

**To:** ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG East KY LLC (898-0735) **AI ID:** 13736 **Activity ID:** ENV20100001

**County:** Pike

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO0000013736():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO0000013736():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO0000013736():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000013736():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and



supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

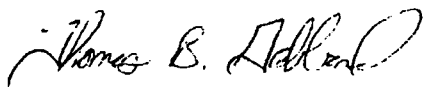
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7007 0710 0004 2989 2530



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7007 0710 0004 2989 2530  
Return Receipt Requested

ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 3739  
AI Name: ICG East KY LLC (898-0737)  
Activity ID: ENV20100001  
Permit No. KYG045336  
Pike County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure

cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** ICG East KY LLC (898-0737) **AI ID:** 3739 **Activity ID:** ENV20100001

**County:** Pike

**Enforcement Case ID:**

**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000003739():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are

followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000003739():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000003739():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

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The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO000003739():**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

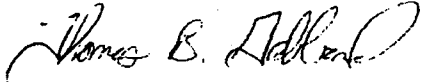
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Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, 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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail

Certified/Registered # 7007 0710 0004 2989 2530



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Water  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
www.ky.gov

November 29, 2010

Certified No. 7007 0710 0004 2989 2530  
Return Receipt Requested

ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

Re: Notice of Violation  
AI ID: 3720  
AI Name: Sidney Coal Co Inc - Sidney Prep  
Plant (Multiple)  
Activity ID: ENV20100001  
Permit No. KYG043050  
Pike County, Kentucky

Dear Sir:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-3410.

Sincerely,

Mr. Thomas B. Gabbard, Manager  
Compliance & Technical Assistance Branch  
Division of Water

Enclosure  
cc: Hazard Regional Office  
Mr. Don Gibson



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

**NOTICE OF VIOLATION**

**To:** ICG East Kentucky, LLC  
1021 Tori Drive  
Hazard, Kentucky 41701

**AI Name:** Sidney Coal Co Inc - Sidney Prep Plant (Multiple)      **AI ID:** 3720  
**Activity ID:** ENV20100001      **County:** Pike  
**Enforcement Case ID:**  
**Date(s) Violation(s) Observed:** 10/15/2010

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

**1 Violation Description for Subject Item AIOO000003720():**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to maintain required records. The specific areas of deficiency are as follows: Samples are taken from the permitted outfalls by permittee's contract lab, S & S Water Monitoring, personnel. Although S & S does have a "Sample Custody Sheet" they do not appear to be used consistently, however the samples are identified by a sample tag that includes the date of the sample, location, analysis to be run and preservative, where applicable. The sample tag has a place for the name of the sampler, but the completed tags we observed did not include the name of the sampler or the time the sample was collected. The sample tags are discarded along with the sample bottle after testing is completed. The "Sample Custody Sheet" does not record when the sample was collected; the name(s) of those who received the sample(s) in the lab, or the time and date the sample was received in the lab. A "Pond Analysis Lab Sheet" apparently used by S&S Water Monitoring as a bench sheet, identifies the date the sample was taken, the name and permit number of the mining facility, the sample location (outfall) and the sample results for both sample dates for each outfall, but does not contain the name of the sampler taking the field readings or the name of the analyst(s). The sheet does not include the date and time when the analysis was performed or any of the documentation (calculations) required to verify the sample results. The "Pond Analysis Lab Sheet" is essentially a working or draft copy of the DMR form. Neither the Pond Analysis Lab Sheets nor lab log books identify the method used for the analysis. DOW found no documentation of calibration, maintenance records, the use of duplicates of spikes or other QC measures.

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

The permittee shall comply with all recordkeeping requirements specified in the permit. Proper sampling procedures shall be followed by verifying the proper chains of custody, laboratory bench sheets, laboratory logs and other pertinent Quality Assurance and Quality Control protocols are



followed for the sampling and analysis of the parameters required for the KPDES self-monitoring program. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR Permits. A copy of the lab Standard Operating Procedures plan (SOP), proper chains of custody forms, bench sheets and the associated analytical data for sampling and analysis performed for the month of October 2010 shall be submitted with the corrective action plan. [401 KAR 5:065 Section 2(1)]

**2 Violation Description for Subject Item AIOO000003720():**

Monitoring results shall be reported at the intervals specified in the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to submit monitoring results at intervals specified in the permit and to provide an authorized signature on the Discharge Monitoring Report. The permittee's contract lab was collecting the samples in the field, doing both the field and laboratory analysis and completing and signing the DMRs. The contract lab has also been submitting the DMRs to the Department of Natural Resources. It is critical that the permittee be fully aware of the data contained on the DMRs, and the supporting lab data that is used in preparing the DMRs.

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

The permittee must report monitoring results at the intervals specified in the permit. The DMRs are to be signed by a responsible corporate officer for the permittee or by a duly authorized representative of the permittee. The permittee must ensure the data submitted on the Discharge Monitoring Report (DMR) is accurate. If the permittee chooses a duly authorized representative to sign the DMRs, the permittee shall immediately submit a letter of authorization, including proper documentation, to EECPPC/DEP/DOW. [401 KAR 5:065 Section 2(1)]

**3 Violation Description for Subject Item AIOO000003720():**

Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

Laboratory controls are deficient due to the lack of adequate quality assurance and quality control (QA/QC) procedures. Although most of the required sampling parameters appear to be performed by approved methodologies, there is a lack of QA/QC because there is no back-up data to support the information contained on the DMRs. Deficiencies include no chains of custody, inadequate bench sheets/records, no lab equipment maintenance logs, reagent logs, calibration logs, and no lab SOP manual, etc. It appears the contract lab is using an unapproved methodology (Hach DR 890 Colorimeter) for TSS analysis. The facility DMRs continually and consistently report the Acidity concentration for all discharges, from all ponds, for all DMRs to be 0 mg/l for 2008, 2009 and 2010. If the value resulting is below the detection limit, the correct way of reporting is to enter BDL (Below Detection Limit) into the appropriate space for Acidity on the DMR form. These deficiencies are addressed in greater detail in the attached lab inspection report.

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

The permittee must, at all times, properly operate & maintain the facility. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. The permittee shall verify their contract laboratory has developed and is implementing a Standard Operating Procedures (SOP) plan and is using approved methodologies for all analysis. By December 15, 2010, the permittee shall submit a corrective action plan to the undersigned that the permittee complies with all requirements of its permit and will maintain adequate records and supporting documentation for the time period required by the KPDES and DNR permits. The permittee shall prepare and submit with the corrective action plan a copy of a chain of custody form, bench sheet, and maintenance, reagent, calibration and precipitation logs to be used, and Standard Operating Procedures to be used. Each document submitted shall include the following information, as appropriate:

The date, exact place, and time of sampling or measurements;

The individual(s) who performed the sampling or measurements;

The date(s) analyses were performed;

The individual(s) who performed the analyses;

The analytical techniques or methods used; and

The results of such analyses.

These documents may include, and are not limited to, chains-of-custody, bench sheets, maintenance, reagent, calibration, and precipitation logs, and standard operating procedures.

[401 KAR 5:065 Section 2(1)]

**4 Violation Description for Subject Item AIOO0000037200:**

Duty to comply. Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR subchapters N and O. [401 KAR 5:065 Section 2(1)]

**Description of Non Compliance:**

The facility has failed to monitor permit parameters utilizing approved test procedures. DOW did observe S&S used the proper sample bottles and preservatives. There was no log of the preservatives used and/or the Certificates of Analysis that should come with the preservatives. DOW did observe that some samples delivered to the lab on 10/14/2010 (client coal company unknown) were contained in a plastic shopping bag, with no means of refrigeration. The samples were placed immediately into the refrigerator at the lab. The refrigerator at the lab did not contain a thermometer, and there was no temperature log for the refrigerator. DOW has provided the lab with a sample copy of a temperature log for the refrigerator. Deficiencies related to the chains of custody and lab bench/record sheets were such that it was not possible to determine if samples were being analyzed within the required holding times. It appeared the lab used an unapproved test methodology to analyze for Total Suspended Solids. The lab sometimes uses the unapproved Hach test kit method instead of the gravimetric method approved through Std. Methods. The deficiencies with the laboratory are discussed in greater detail in the attached Laboratory Performance Audit Report.

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

The permittee must monitor parameters in accordance with procedures approved under 40 CFR Part 136. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The permittee shall submit a written notification to the undersigned that the permittee complies with all requirements of its permit. Along with the Corrective Action Plan (CAP), the permittee shall also provide a copy of the Standard Operating Procedure (SOP) plan utilized by their lab facility along with an outline of the QA/QC protocols being implemented by the laboratory. The CAP and

supporting documents shall be submitted by December 15, 2010. [401 KAR 5:065 Section 2(1)]

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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.

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

Division of Water  
Compliance & Technical Assistance Branch  
200 Fair Oaks Lane, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
502-564-3410 (8:00 AM – 4:30 PM)  
Mr. Thomas B. Gabbard, Environmental Control Manager



Issued By: \_\_\_\_\_

Mr. Thomas B. Gabbard, Environmental Control Manager

Date: November 29, 2010

How Delivered: Certified Mail      Certified/Registered # 7007 0710 0004 2989 2530



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF ENFORCEMENT  
300 FAIR OAKS LANE  
FRANKFORT KENTUCKY 40601  
[www.kentuckv.gov](http://www.kentuckv.gov)

November 29, 2010

Hand Delivered

ICG East KY LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

Re: Notice of Violation  
AI ID: 82942  
AI Name: ICG East KY LLC  
Activity ID: ENV20100002  
KPDES Permits: Multiple  
DSMRE Permits: Multiple

Dear Mr. Gibson:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facilities. Please review this Notice of Violation carefully.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at (502) 564-2150 extension 266.

Sincerely,

A handwritten signature in cursive script that reads "Lori E. Conway".

Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Division of Enforcement

Enclosure

The word "Kentucky" in a stylized, bold font with a horse head silhouette integrated into the letter "y".



**COMMONWEALTH OF KENTUCKY  
ENERGY and ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Enforcement**

**NOTICE OF VIOLATION**

**To:** ICG East KY LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

**AI Name:** ICG East KY LLC (880-0179)      **AI ID:** 82942 – Multiple **Activity ID:** ENV20100002  
**County:** Multiple  
**KPDES Permits / DSMRE Permits:**  
**KYG046183 (880-0179), KYG045173 (898-0735), KYG045336 (898-0737)**

**Date(s) Violation(s) Observed:** 11/25/2010

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

- 1 Violation Description for Subject Item AIOO0000082942():  
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 or 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:**

ICG East KY LLC violated 40 CFR 122.41(k), as referenced by 401 KAR 5:065, Section 2(1), by failing to comply with the signatory requirements for the DMR certification as specified in 40 CFR 122.22(b). The DMRs listed below had unsigned certification statements:

**KYG046183 (880-0179):**            Outfalls 2H, SS-26, Pond-5  
   1st Quarter (January through March) 2010

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

ICG East KY LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

- 2 Violation Description for Subject Item AIOO0000082942():  
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 or 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:**

ICG East KY LLC violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit all data as required for Monitoring and Reporting, as required by the KPDES Coal General Permit.

A total of two (2) samples shall be collected (if discharge occurs) each calendar month during a period of discharge resulting from a precipitation or pumpage event for all active mining areas and post mining underground drainage. Should either or both discharges be controlled discharges, then the requirement of Section B shall apply.

If only one (1) discharge occurs during the calendar month, then the permittee must provide appropriate documentation.

Below are the specific violations found:

**KYG045173 (898-0735):** Outfall 4: No Samples were reported for December 2009. Appropriate documentation was not attached to the DMRs.

**KYG046183 (880-0179):** Outfall SS2: Only 1 sample was reported for January 2008. Appropriate documentation was not attached to the DMRs.

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

ICG East KY LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

**3 Violation Description for Subject Item AIOO0000082942():**

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 or 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:**

ICG East KY LLC violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit the required monitoring data for conductivity on the Discharge Monitoring Reports (DMRs) for August 2009 and September 2009. Conductivity data was missing for the following permit and outfall:

**KYG045336 (898-0737):** Outfalls P13 and P14

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

ICG East KY LLC shall comply with the terms and conditions of their KPDES permits. [KRS 224.70-110]

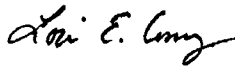
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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:

Department for Environmental Protection  
Division of Enforcement  
300 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-2150 extension 266 (8:00 AM – 4:30 PM)  
Ms. Lori Conway, Enforcement Specialist



Issued By: \_\_\_\_\_

Ms. Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Date: November 29, 2010



Issued By: \_\_\_\_\_

Mark J. Cleland, M.P.A., R.E.H.S.  
Environmental Control Manager  
Compliance and Operations Branch  
Date: November 29, 2010

How Delivered:      Hand Delivered

11/23/2010

**ICG East Kentucky  
LLC**

**Permits Reviewed**

	DNR #	Old or New DNR #	KPDES #	AI#
1	880-0179		KYG046183	82943
2	898-0735		KYG045173	13736
3	898-0737		KYG045336	3739
4	898-7073		KYG045176	14990
5	898-8155	old 898-8134	KYG043050	3720

\*\* No DMRs required

\* No Violations





STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF ENFORCEMENT  
300 FAIR OAKS LANE  
FRANKFORT KENTUCKY 40601  
[www.kentucky.gov](http://www.kentucky.gov)

November 29, 2010

ICG East KY LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

Re: Notice of Violation  
AI ID: 14990  
AI Name: ICG East KY LLC (898-7073)  
Activity ID: ENV20100001  
KPDES Permit: KYG045176  
DMRE Permit: 898-7073  
Pike County, KY

Dear Mr. Gibson:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully.

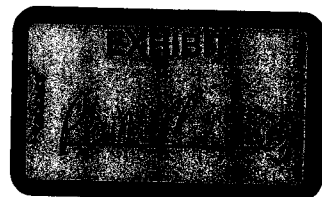
Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at (502) 564-2150 extension 266.

Sincerely,

A handwritten signature in cursive script that reads "Lori E. Conway".

Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Division of Enforcement

Enclosure



**COMMONWEALTH OF KENTUCKY  
ENERGY and ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Enforcement**

**NOTICE OF VIOLATION**

**To:** ICG East KY LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

**AI Name:** ICG East KY LLC (898-7073)      **AI ID:** 14990    **Activity ID:** ENV20100001  
**County:** Pike

**KPDES Permit:** KYG045176  
**DMRE Permit:** 898-7073

**Date(s) Violation(s) Observed:** 12/02/2010

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

- 1 Violation Description for Subject Item AIOO0000014990():  
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 or 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:**

ICG East KY LLC violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit Discharge Monitoring Reports (DMRs) for KPDES Coal General permit #KYG045176, for 1st, 2nd, 3rd, and 4th Quarters (January - December) of 2008; 1st, 2nd, 3rd and 4th Quarters (January - December) of 2009; and for 1st & 2nd Quarters (January - June) of 2010.

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

ICG East KY LLC shall comply with the terms and conditions of KPDES Coal General Permit #KYG045176. [KRS 224.70]

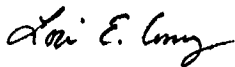
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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:

Department for Environmental Protection  
Division of Enforcement  
300 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-2150 extension 266 (8:00 AM – 4:30 PM)  
Ms. Lori Conway, Enforcement Specialist



Issued By:

---

Ms. Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Date: November 29, 2010



Issued By:

---

Mark J. Cleland, M.P.A., R.E.H.S.  
Environmental Control Manager  
Compliance and Operations Branch  
Date: November 29, 2010

How Delivered:



STEVEN L. BESHEAR  
GOVERNOR

LEONARD K. PETERS  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF ENFORCEMENT  
300 FAIR OAKS LANE  
FRANKFORT KENTUCKY 40601  
[www.kentucky.gov](http://www.kentucky.gov)

November 29, 2010

Hand Delivered

Powell Mountain Energy LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

Re: Notice of Violation  
AI ID: 102044  
AI Name: Powell Mountain Energy LLC  
Activity ID: ENV20100001  
KPDES Permits: Multiple  
DSMRE Permits: Multiple

Dear Mr. Gibson:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facilities. Please review this Notice of Violation carefully.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at (502) 564-2150 extension 266.

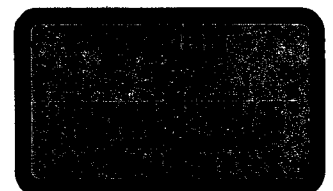
Sincerely,

A handwritten signature in cursive script that reads "Lori E. Conway".

Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Division of Enforcement

Enclosure

The word "Kentucky" in a stylized font with a horse head silhouette integrated into the letter "y".



**COMMONWEALTH OF KENTUCKY  
ENERGY and ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Enforcement**

**NOTICE OF VIOLATION**

**To:** Powell Mountain Energy LLC  
Attn: Don Gibson  
1021 Tori Drive  
Hazard, KY 41701

**AI Name:** Powell Mountain Energy LLC (848-5475)   **AI ID:** 102044 - Multiple  
**Activity ID:** ENV20100001  
**County:** Multiple  
**KPDES Permits / DSMRE Permits:**  
**KYG045535 (848-5475), KYG042008 (848-5473), KYG041488 (848-5472), KYG041694 (848-5471),  
KYG040167 (848-5470)**

**Date(s) Violation(s) Observed:** 11/29/2010

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

- 1 Violation Description for Subject Item AIOO0000102044():  
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 or 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:**

Powell Mountain Energy LLC violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit the required monitoring data for conductivity on the Discharge Monitoring Reports (DMRs) for August 2009 and September 2009. Conductivity data was missing for the following permits and outfalls:

**KYG045535 (848-5475)** Outfall 2  
**KYG042008 (848-5473)** Outfalls 1 & 2  
**KYG041694 (848-5471)** Outfalls 5, 6 & 7  
**KYG040167 (848-5470)** Outfall 6

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

Powell Mountain Energy LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

- 2 Violation Description for Subject Item AIOO0000102044():  
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 or 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:**

Powell Mountain Energy LLC violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit the required monitoring data for conductivity on the Discharge Monitoring Reports (DMRs) for September, October, or November of 2009. Conductivity data was missing for the following permits and outfalls:

- KYG041694 (848-5471)** Outfall 1 for November 2009
- KYG040167 (848-5470)** Outfall 3 for September and November of 2009.
- KYG040167 (848-5470)** Outfall 6 for October and November of 2009.

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

Powell Mountain Energy LLC shall comply with the terms and conditions of their KPDES Permits. [KRS 224.70-110]

**3 Violation Description for Subject Item AIOO0000102044():**

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 or 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:**

Powell Mountain Energy LLC violated 401 KAR 5:065, Section 2(1), which cites to 40 CFR 122.41(a), by failing to submit all data as required for Monitoring and Reporting, as required by the KPDES Coal General Permit.

A total of two (2) samples shall be collected (if discharge occurs) each calendar month during a period of discharge resulting from a precipitation or pumpage event for all active mining areas and the requirement of Section B shall apply.

If only one (1) discharge occurs during the calendar month, then the permittee must provide appropriate documentation.

Below are the specific violations found:

**KYG045535 (848-5475):** Outfall 2: Only 1 sample was reported for August of 2009. Appropriate documentation was not attached to the DMRs.

**KYG041488 (848-5472):** Outfall 5: Only 1 sample was reported for August of 2008. Appropriate documentation was not attached to the DMRs.

**KYG041488 (848-5472):** Outfall 2: Only 1 sample was reported for January of 2009; and NO samples reported for February and March of 2009. Appropriate documentation was not attached to the DMRs.

**KYG041694 (848-5471):** Outfall 1: Only 1 sample was reported for July 2008; and January and June of 2009. NO samples were reported for September 2008; and February, March, April, May, August, September, October and December of 2009.

**KYG041694 (848-5471):** Outfall 6: Only 1 sample was reported for August and September of 2008. NO samples were reported for June of 2009. Appropriate documentation was not attached to the DMRs.

**KYG041694 (848-5471):** Outfall 7: Only 1 sample was reported for August and December of 2008; January and March of 2009. Appropriate documentation was not attached to the DMRs.

**KYG040167 (848-5470):** Outfall 12: Only 1 sample was reported for July and August of 2008. NO samples were reported for September of 2009. Appropriate documentation was not attached.

**KYG040167 (848-5470):** Outfall 3: Only 1 sample was reported for September 2008; February and April of 2009. NO samples were reported for August, October and November of 2008; August and October of 2009. Appropriate documentation was not attached.

**KYG040167 (848-5470):** Outfall 7: Only 1 sample was reported for December of 2008; and January, February and April of 2009. NO samples were reported for October and November of 2008; and for June of 2009. Appropriate documentation was not attached.

**KYG040167 (848-5470):** Outfall 2: Only 1 sample was reported for January, February, March, April and May of 2009. NO samples were reported for June of 2009. Appropriate documentation was not attached.

**KYG040167 (848-5470):** Outfall 6: Only 1 sample was reported for January, February, April, and December of 2009. NO samples were reported for July of 2009. Appropriate documentation was not attached.

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

Powell Mountain Energy LLC shall comply with the terms and conditions of their KPDES Permits.  
[KRS 224.70-110]

**\*\* NOTE \*\*** *Attached is a complete list of Powell Mountain permits that were reviewed.*

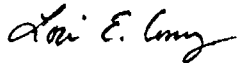
Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance 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:

Department for Environmental Protection  
Division of Enforcement  
300 Fair Oaks Lane  
Frankfort, KY 40601  
502-564-2150 extension 266 (8:00 AM – 4:30 PM)  
Ms. Lori Conway, Enforcement Specialist



Issued By:

---

Ms. Lori E. Conway  
Environmental Enforcement Specialist  
Compliance and Operations Branch  
Date: November 29, 2010



Issued By:

---

Mark J. Cleland, M.P.A., R.E.H.S.  
Environmental Control Manager  
Compliance and Operations Branch  
Date: November 29, 2010

How Delivered: Hand Delivered



11/23/2010

**Powell Mountain Energy LLC**

Permits Reviewed

	DNR #	Old or New DNR #	KPDES #	AI#	
1	848-5457		unknown		* No DMRs required
2	848-5470		KYG040167	15343	
3	848-5471		KYG041694	15343	
4	848-5472		KYG041488	102039	
5	848-5473		KYG042008	14319	
6	848-5474		KYG045436	102043	* Not on NOV
7	848-5475		KYG045535	102044	
8	848-5476	old 848-5456	KYG044246	102046	* Not on NOV