

Filed 4/8/2026 OAH
DOW-25-3-0161

COMMONWEALTH OF KENTUCKY ENERGY
AND ENVIRONMENT CABINET DIVISION OF
ENFORCEMENT
CASE NO. DOW-25-3-0161

IN RE: Lexington-Fayette Urban County Government 125
Lisle Industrial Avenue, Suite 180
Lexington, Kentucky, 40511
Agency Interest No. 2295
Activity ID No. ERF20250001

AGREED ORDER

WHEREAS, the parties to this Agreed Order, the Energy and Environment Cabinet (hereinafter "Cabinet") and the Lexington-Fayette Urban County Government (hereinafter "Responsible Party"), state:

STATEMENTS OF FACT

1. The Cabinet is charged with the statutory duty of enforcing KRS Chapter 224 and the regulations promulgated pursuant thereto.
2. The Responsible Party owns and operates a publicly owned treatment works and associated collection system, "West Hickman WWTP" located at 645 West Hickman Plant Road in Jessamine County Kentucky (hereinafter "Facility"). The Facility has a design capacity of 33.8 million gallons per day (hereinafter "MGD"), with an average flow of 20.0 MGD.
3. The Responsible Party holds Kentucky Pollutant Discharge Elimination Systems (hereinafter "KPDES") Permit No. KY0021504, issued by the Cabinet's Division of Water (hereinafter "DOW") for domestic sanitary wastewater.
4. On August 12, 2024, May 14, 2025, August 13, 2025, and November 12, 2025, the Cabinet's authorized representatives in the Division of Enforcement, Compliance and Operations Branch, identified alleged violations of KRS Chapter 224 and regulations promulgated pursuant thereto at the Facility. The Cabinet issued the Responsible Party Notices of Violation (hereinafter "NOVs") for violations associated with KPDES permit parameter exceedances, on August 26, 2024, June 10, 2025, September 27, 2025, and December 3, 2025. The violations cited include failure to meet the permit parameter requirements, most notably for Total Phosphorus and Fecal Coliform Bacteria. The NOVs are attached hereto as Exhibit A to this Agreed Order.

DOW-25-3-0161
COMMONWEALTH OF KENTUCKY ENERGY
AND ENVIRONMENT CABINET DIVISION OF
ENFORCEMENT
CASE NO. DOW-25-3-0161

IN RE: Lexington-Fayette Urban County Government 125
Lisle Industrial Avenue, Suite 180
Lexington, Kentucky, 40511
Agency Interest No. 2295
Activity ID No. ERF20250001

AGREED ORDER

WHEREAS, the parties to this Agreed Order, the Energy and Environment Cabinet (hereinafter “Cabinet”) and the Lexington-Fayette Urban County Government (hereinafter “Responsible Party”), state:

STATEMENTS OF FACT

1. The Cabinet is charged with the statutory duty of enforcing KRS Chapter 224 and the regulations promulgated pursuant thereto.
2. The Responsible Party owns and operates a publicly owned treatment works and associated collection system, “West Hickman WWTP” located at 645 West Hickman Plant Road in Jessamine County Kentucky (hereinafter “Facility”). The Facility has a design capacity of 33.8 million gallons per day (hereinafter “MGD”), with an average flow of 20.0 MGD.
3. The Responsible Party holds Kentucky Pollutant Discharge Elimination Systems (hereinafter “KPDES”) Permit No. KY0021504, issued by the Cabinet’s Division of Water (hereinafter “DOW”) for domestic sanitary wastewater.
4. On August 12, 2024, May 14, 2025, August 13, 2025, and November 12, 2025, the Cabinet’s authorized representatives in the Division of Enforcement, Compliance and Operations Branch, identified alleged violations of KRS Chapter 224 and regulations promulgated pursuant thereto at the Facility. The Cabinet issued the Responsible Party Notices of Violation (hereinafter “NOVs”) for violations associated with KPDES permit parameter exceedances, on August 26, 2024, June 10, 2025, September 27, 2025, and December 3, 2025. The violations cited include failure to meet the permit parameter requirements, most notably for Total Phosphorus and Fecal Coliform Bacteria. The NOVs are attached hereto as Exhibit A to this Agreed Order.

reasons for the request. If granted, the amended CAP shall not affect any provision of this Agreed Order unless expressly provided in the amended CAP. This does not require an amendment request pursuant to paragraph twenty-five (25) of this Agreed Order.

9. Upon Cabinet acceptance of the CAP, an amended CAP, or any accepted part thereof (provided that the accepted part is not dependent upon implementation of any part not yet accepted), shall be deemed incorporated into this Agreed Order as an enforceable requirement of this Agreed Order.

10. At the end of the first calendar quarter following the execution of this Agreed Order, the Responsible Party shall submit quarterly progress reports for each three (3) month period no later than the thirtieth (30th) day of the month following the end of the quarter to the Cabinet that describes its progress in complying with this Agreed Order. The quarterly report shall include, at a minimum:

- A. A detailed description of projects and activities conducted and completed during the past reporting period to comply with the requirements of this Agreed Order;
- B. The anticipated activities that will be performed in the upcoming three-month period to comply with the requirements of this Agreed Order; and
- C. Any additional information necessary to demonstrate that the Responsible Party is adequately implementing its CAP.

11. By the final compliance date specified in the Cabinet approved CAP, the Responsible Party shall be in compliance with KRS 224, and the regulations promulgated pursuant thereto, KPDES Permit No. KY0021504 and this Agreed Order.

12. All submittals required by the terms of this Agreed Order shall be sent to:

Division of Enforcement Attention:
Director
300 Sower Boulevard, 3rd Floor
Frankfort, Kentucky 40601

CIVIL PENALTY

13. The Responsible Party has been assessed a civil penalty in the amount of five thousand dollars (\$5,000), to resolve the violations described in Exhibit A. The civil penalty shall be tendered in a single payment and payable within thirty (30) days following the execution of this Agreed Order.

14. Payment of the civil penalty shall be by cashier's check, certified check, or money order, made

C. The discharge exceeds the effluent limits for any parameter at least four (4) times within two consecutive quarters.

19. Payment of stipulated penalties shall be tendered by the Responsible Party to the Cabinet within thirty (30) days of receipt of written notification from DENF. These penalties are in addition to, and not in lieu of, any other penalty that could be assessed. The Cabinet may at its discretion, waive stipulated penalties that would otherwise be due.

20. If the Responsible Party believes the request for payment of stipulated penalties is erroneous or contrary to law, the Responsible Party may request a hearing pursuant to KRS 224.10-420(2) in the Office of Administrative Hearings. The request for hearing does not excuse timely payment of the penalty. If an order is entered pursuant to KRS 224.10-440 that excuses payment, the Cabinet will refund the payment. Failure to make timely payment shall constitute an additional violation.

21. Payment of any stipulated penalties shall be by cashier's check, certified check, or money order, made payable to "**Kentucky State Treasurer**" and sent to the attention of the Director, Division of Enforcement, Department for Environmental Protection, 300 Sower Boulevard, 3rd Floor, Frankfort, Kentucky 40601; note "**Case Number DOW-25-3-0161**" on the instrument of payment.

MISCELLANEOUS PROVISIONS

22. This Agreed Order addresses only the violations specifically alleged in Exhibit A. Other than those matters resolved by entry of this Agreed Order nothing contained herein shall be construed to waive or to limit any remedy or cause of action by the Cabinet based on statutes or regulations under its jurisdiction and the Responsible Party reserves its defenses thereto. The Cabinet expressly reserves its right at any time to issue administrative orders and to take any other action it deems necessary that is not inconsistent with this Agreed Order, including the right to order all necessary remedial measures, assess penalties for violations, or recover all response costs incurred, and the Responsible Party reserves its defenses thereto.

23. This Agreed Order shall not prevent the Cabinet from issuing, reissuing, renewing, modifying, revoking, suspending, denying, terminating, or reopening any permit to the Responsible Party. The Responsible Party reserves its defenses thereto, except that the Responsible Party shall not use this

DOW-25-3-0161

are facility-specific and designed to comply with the statutes and regulations cited herein. This Agreed Order applies specifically and exclusively to the unique Facility referenced herein and is inapplicable to any other facility.

30. This Agreed Order shall be of no force and effect unless and until it is entered by the Secretary, or her designee as evidenced by their signature thereon. If this Agreed Order contains any date by which the Responsible Party is to take any action or cease any activity, and the Secretary enters the Agreed Order after that date, then the Responsible Party is nonetheless obligated to have taken the action or ceased the activity by the date contained in this Agreed Order.

TERMINATION

31. This Agreed Order shall terminate upon the Responsible Party's completion of all requirements described in this Agreed Order. The Responsible Party may submit written notice to the Cabinet when it believes all requirements have been performed. The Cabinet will notify the Responsible Party in writing of whether it intends to agree with or object to termination. The Cabinet reserves its right to enforce this Agreed Order, and the Responsible Party reserves its right to file a petition for hearing pursuant to KRS 224.10-420(2) contesting the Cabinet's determination.

DOW-25-3-0161

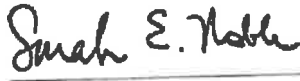
APPROVAL RECOMMENDED BY:



Jarrod Bell, Director
Division of Enforcement

4/6/2026

Date



Sarah E. Noble, General Counsel
Office of Legal Services

04.07.26

Date

DOW-25-3-0161

ORDER

Wherefore, the foregoing Agreed Order is entered as the final Order of the Energy and Environment Cabinet this 8th day of April, 2026.

ENERGY AND ENVIRONMENT CABINET



John S. Lyons, Deputy Secretary
Authorized Designee, Rebecca W. Goodman, Secretary Energy &
Environment Cabinet

DOW-25-3-0161

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing **AGREED ORDER** was mailed, postage prepaid, to the following this 8th day of April, 2026.

Lexington West Hickman WWTP
Mr. Charles H Martin
125 Lisle Industrial Ave Ste 180
Lexington, KY 40511

And by electronic mail, to:

Jarrod Bell, Director Division
of Enforcement
300 Sower Boulevard, 3rd Floor
Frankfort, Kentucky 40601

Sarah E. Noble, General Counsel
Office of Legal Services
300 Sower Boulevard, 3rd Floor
Frankfort, Kentucky 40601

Lucy M. Bennette

DOCKET COORDINATOR

Exhibit A

COMMONWEALTH OF KENTUCKY
ENERGY and ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Enforcement

NOTICE OF VIOLATION

To: Lexington West Hickman WWTP
Mr. Charles H Martin
125 Lisle Industrial Ave Ste 180

Lexington, KY 40511

AI Name: Lexington West Hickman WWTP **AI ID:** 2295 **Activity ID:** ENV20240001
County: Jessamine
Enforcement Case ID:
Date(s) Violation(s) Observed: 08/12/2024

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

1 Violation Description for Subject Item AIOO0000002295():

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:

Failing to comply with 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. KY0021504, monitoring point 001-3, for Total Phosphorus (as P). The permitted limit for Total Phosphorus (as P) is concentration monthly avg., less than or equal to 1 mg/L; and concentration daily max., less than or equal to 2 mg/L. The facility reported the following: concentration monthly avg. 1.1 mg/L; and concentration daily max. 2.3 mg/L for May 2024.

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

The permittee shall comply with the terms and conditions of the KPDES Permit. [KRS 224.70-110]

2 Violation Description for Subject Item AIOO0000002295():

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:

Failing to comply with 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. KY0021504, monitoring point 001-3, for Total Phosphorus (as P). The permitted limit for Total Phosphorus (as P) is concentration monthly avg., less than or equal to 1 mg/L; and concentration daily max., less than or equal to 2 mg/L. The facility reported the following: concentration monthly avg. 1.51 mg/L; and concentration daily max. 4.11 mg/L for June 2024.

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

The permittee shall comply with the terms and conditions of the KPDES Permit. [KRS 224.70-110]

**COMMONWEALTH OF KENTUCKY
ENERGY and ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Enforcement**

NOTICE OF VIOLATION

To: Lexington West Hickman WWTP
Mr. Charles H Martin
125 Lisle Industrial Ave Ste 180

Lexington, KY 40511

AI Name: Lexington West Hickman WWTP **AI ID:** 2295 **Activity ID:** ENV20250001
County: Jessamine
Enforcement Case ID:
Date(s) Violation(s) Observed: 05/14/2025

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

1 Violation Description for Subject Item AIOO0000002295():

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:

Failing to comply with 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. KY0021504, monitoring point 001-3, for Fecal Coliform Bacteria. The permitted limit for Fecal Coliform Bacteria is concentration 30-day geometric avg., less than or equal to 200 MPN/100 mL; and concentration 7-day geometric, less than or equal to 400 MPN/100 mL. The facility reported the following: concentration 30-day geometric avg. 233 MPN/100 mL; and concentration 7-day geometric 3445 MPN/100 mL for February 2025.

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

The permittee shall comply with the terms and conditions of the KPDES Permit. [KRS 224.70-110]

2 Violation Description for Subject Item AIOO0000002295():

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:

Failing to comply with 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. KY0021504, monitoring point 001-3, for Fecal Coliform Bacteria. The permitted limit for Fecal Coliform Bacteria is concentration 7-day geometric, less than or equal to 400 MPN/100 mL. The facility reported the following: concentration 7-day geometric 708 MPN/100 mL for April 2025.

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

The permittee shall comply with the terms and conditions of the KPDES Permit. [KRS 224.70-110]

**COMMONWEALTH OF KENTUCKY
ENERGY and ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Enforcement**

NOTICE OF VIOLATION

To: Lexington West Hickman WWTP
Charles H Martin
125 Lisle Industrial Ave Ste 180

Lexington, KY 40511

AI Name: Lexington West Hickman WWTP **AI ID:** 2295 **Activity ID:** ENV20250002
County: Jessamine
Enforcement Case ID:
Date(s) Violation(s) Observed: 08/13/2025

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

1 Violation Description for Subject Item AIOO0000002295():

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:

Failing to comply with 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. KY0021504, monitoring point 001-3, for Total Phosphorus (as P). The permitted limit for Total Phosphorus (as P) is concentration monthly avg., less than or equal to 1 mg/L. The facility reported the following: concentration monthly avg. 1.06 mg/L for May 2025.

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

The permittee shall comply with the terms and conditions of the KPDES Permit. [KRS 224.70-110]

2 Violation Description for Subject Item AIOO0000002295():

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:

Failing to comply with 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. KY0021504, monitoring point 001-3, for Total Phosphorus (as P). The permitted limit for Total Phosphorus (as P) is concentration monthly avg., less than or equal to 1 mg/L; and concentration daily max., less than or equal to 2 mg/L. The facility reported the following: concentration monthly avg. 1.02 mg/L; and concentration daily max. 3.73 mg/L for June 2025.

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

The permittee shall comply with the terms and conditions of the KPDES Permit. [KRS 224.70-110]

COMMONWEALTH OF KENTUCKY
ENERGY and ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Enforcement

NOTICE OF VIOLATION

To: Lexington West Hickman WWTP
Charles H Martin
125 Lisle Industrial Ave Ste 180

Lexington, KY 40511

AI Name: Lexington West Hickman WWTP **AI ID:** 2295 **Activity ID:** ENV20250003
County: Jessamine
Enforcement Case ID:
Date(s) Violation(s) Observed: 11/12/2025

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

- 1** Violation Description for Subject Item AIOO0000002295():
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:

Failing to comply with 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. KY0021504, monitoring point 001-3, for Total Phosphorus (as P). The permitted limit for Total Phosphorus (as P) is concentration daily max., less than or equal to 2 mg/L. The facility reported the following: concentration daily max. 2.31 mg/L for August 2025.

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

The permittee shall comply with the terms and conditions of the KPDES Permit. [KRS 224.70-110]



**CORRECTIVE ACTION PLAN
KENTUCKY ENERGY AND ENVIRONMENT CABINET
DIVISION OF ENFORCEMENT
CASE NO. DOW-25-3-0161**

Explanation of why the cited violations occurred.

A detailed explanation of the cited violations was provided via the enclosed letter marked as Exhibit A and dated December 1, 2025. Further explanation is provided as follows:

Fecal Coliform Violations – Table 1 below along with a more detailed review of the DMR’s reveals that the fecal coliform exceedances have a direct correlation with rainfall and influent plant flow. For both the February 2025 and April 2025 violations, the applicable geometric mean was well below the permit limit both before and after those substantial rain events.

TABLE 1

DATE	REPORTED FECAL COUNT	*USGS RAIN GAUGE	PLANT FLOW (MGD - avg/peak)
2/6/2025	60,000	4.43 inches (12:01 am 2/5/25 to 11:59 pm 2/10/25)	53.48/60.7
2/8/2025	60,000	4.43 inches (12:01 am 2/5/25 to 11:59 pm 2/10/25)	46.14/70.14
2/17/2025	60,000	3.7 inches (12:01 am 2/15/25 to 11:59 pm 2/16/25)	59.56/86.57
4/3/2025	60,000	2.75 inches (12:01 am to 11:59 pm)	61.15/72.76
		3.1 inches on 4/4/25	74.77/88.01
		2.16 inches on 4/5/25	76.58/78.63
		1.31 inches on 4/6/25	77.1/78.64
4/7/2025	60,000	9.3 inches total rainfall over 4-day period	71.28/78.67

*USGS gauge located on West Hickman Creek at Ashgrove Pike

The intensity of both rain events led to Governor Beshear declaring a “State of Emergency” due to heavy rain and potential flooding. The absence of any other trends or records indicating an interruption to the gaseous chlorine disinfection process leads Lexington to conclude that the violations were entirely a result of these two substantial rain events.

Total Phosphorus Violations – As noted in Exhibit A, the effluent total phosphorus violations are much more random and trendless. The only apparent trend is that Daily Maximum exceedances are more likely to occur in the months of May and June and multiple Daily Maximum exceedances lead directly to the Monthly Average exceedances. The exception to the May / June trend is the August

2025 cited violation that was directly attributable to the sewer odor control pilot test underway at that time. Exhibit A provides a more detailed explanation of the sewer odor pilot study impact.

List of proposed corrective actions to return the Facility back into compliance that will be taken during the duration of the CAP.

Fecal Coliform Violations

A new ultraviolet disinfection system is currently being installed at West Hickman WWTP, replacing the antiquated gaseous chlorine system. Lexington expects improved performance from this new system but cannot fully validate its effectiveness when operating in high flow conditions caused by intense rainfall events similar in scope to February and April 2025.

Total Phosphorus Violations

1. Lexington is proposing an earlier start of up of the two-stage phosphorus removal process. The seasonal permit limit applies May 1 to October 31. Lexington will start the Stage 1 Biological Phosphorus Removal (BPR) process prior to April 1 to allow the biology of the system to acclimate quicker; during a timeframe where permit limits do not apply.
2. Lexington has engaged a chemical supplier to conduct jar tests on alternative chemicals that can better convert soluble phosphorus into insoluble solid precipitates. The results of this jar testing suggested that a ferric chloride product would provide improved performance over the Poly-Aluminum Chloride (PAC) product used previously.

Any action taken pertaining to proper maintenance of its outfalls, proper sampling, proper record keeping and reporting, and maintaining compliance with effluent limitations.

Our investigation related to these cited violations found that they are not related to a lack of proper maintenance or poor record keeping and reporting, Lexington's position remains that the fecal coliforms concentrations were due to an Act of God and exceeded the designed process control capacity of the facility.

In regard to the total phosphorus cited violations, the facility is having the in-line ChemScan total phosphorus monitoring system upgraded to assist in maintaining process control upstream of the



chemical precipitation feed point. Upgrade to the ChemScan system should be completed by August 2026 (equipment availability - May 2026 per manufacturer.)

A final compliance date by which compliance with the terms and conditions of the permit is achieved.

With exception of rainfall events that trigger Declarations of Emergency, Lexington is confident that the new Ultraviolet Disinfection process will allow the West Hickman WWTP to immediately meet its administratively continued discharge permit for Fecal Coliform.

Lexington believes that compliance with the terms and conditions of the administratively continued Total Phosphorus permit limit can be obtained with an improved chemical precipitation feed. Compliance is expected to be achieved by October 31, 2026. Lexington also suggests that current Total Phosphorus limit be critically evaluated when a new permit is issued for public comment.



EXHIBIT A

MAYOR LINDA GORTON



LEXINGTON

CHARLES H. MARTIN, P.E.
DIRECTOR
WATER QUALITY

December 1, 2025

Ms. Kate Ruggles
Environmental Enforcement Specialist
Division of Enforcement
Department of Environmental Protection
300 Sower Boulevard
Frankfort, KY 40601

RE: AI Name: Lexington West Hickman WWTP
AI No.: 2295
Case No.: DOW-25-3-0161
Activity No.: ERF20250001
Facility ID: KPDES No. KY0021504
Jessamine County

Dear Ms. Ruggles:

In response to your November 18, 2025 letter, the Lexington-Fayette Urban County Government (LFUCG) respectfully provides the following comments:

1. Any Agreed Order would be entered with the Lexington-Fayette Urban County Government (LFUCG), not Charles Martin individually. The Agreed Order would be approved, via Resolution, by the Urban County Council and signed by the mayor.
2. From LFUCG's perspective, total phosphorous violations have the following trend or explanation.
 - i. May and June 2024 – the new superintendent, who was hired in October 2023, began implementing a stored chemical precipitation feed system in May 2024. This system was intended to be a “polishing” step to the biological phosphorus system. The ten (10) daily maximum violations that occurred during this time seem reflective of the trial and error of establishing an effective feed rate. Throughout 2024, LFUCG was working to correct ongoing sludge management issues that surfaced in 2023 and as part of that effort, LFUCG changed its sludge dewatering process so that decant water from the centrifuges was handled in a way that reduced phosphorus loading at the headworks.



EXHIBIT A

It should be noted that the number of daily exceedances during this timeframe had a cumulative impact on the monthly averages.

- ii. May 2025 – startup of the phosphorus treatment process led to a monthly average that was six one hundredths (0.06) mg/l over the limit with zero daily maximum violations. During this time period, a baffle was installed in the Biological Influent Removal (BPR) channel to improve mixing within the BPR tanks.
- iii. June 2025 – the daily maximum of 3.73 mg/L clearly led to the monthly average exceedance (1.02 mg/L). Lab error or a slug is the only logical explanation since the daily average for the four preceding days was 0.87 mg/L and the subsequent four-day average was 0.78 mg/L, with no corresponding discontinuance of the phosphorus removal process.
- iv. August 2025 – as discussed during our telephone call, LFUCG was implementing a chemical odor control pilot study between July and October 2025. In August, we were pilot testing a magnesium hydroxide product that reduced the effectiveness of the biological phosphorus removal process. Phase 1 feed began August 12 and by August 21, the daily Total P concentration had risen from the 0.29 – 0.94 mg/L range to a 1.23 -2.24 mg/L range. The Phase 2 feed rate was adjusted to try and control the negative impact to the biological phosphorus process while still reducing hydrogen sulfide levels. The impact of the Phase 2 chemical feed was:
 - Chemical off / Total P range – 0.44 to 0.70 mg/L
 - Chemical on / Total P range – 1.55 to 2.31 mg/L

The pilot study was terminated on September 3, 2025 and no further violations occurred.

3. The development of a phosphorus removal oriented Corrective Action Plan (CAP), in the context of a KPDES permit that has been administratively continued since 2006, has risks that are of great concern to Lexington. In 2014, the cabinet proposed a draft permit that proposed modified Total Phosphorus effluent limits, including the elimination of the daily maximum limitations that are currently identified as permit exceedances for May 2024, June 2024 and June 2025. LFUCG is apprehensive about proposing significant extensive capital improvements with the continued uncertainty of future Total Phosphorus discharge limits for KY0021504.
4. As for the fecal coliform violations, both exceedances occurred during periods of excessive precipitation and high influent flow. More specifically:

EXHIBIT A

DATE	REPORTED FECAL COUNT	USGS RAIN GAUGE	PLANT FLOW (daily/peak) MGD
2/6/2025	60,000	4.43 inches (12:01 am 2/5/25 to 11:59 pm 2/10/25)	53.48/61.20
2/8/2025	60,000	4.43 inches (12:01 am 2/5/25 to 11:59 pm 2/10/25)	46.14/65.20
2/17/2025	60,000	3.7 inches (12:01 am 2/15/25 to 11:59 pm 2/16/25)	59.56/75.30
4/3/2025	60,000	2.75 inches (12:01 am to 11:59 pm)	61.15/71.10
		3.1 inches on 4/4/25	74.77/80.90
		2.16 inches on 4/5/25	76.58/83.00
		1.31 inches on 4/6/25	77.10/80.30
4/7/2025	60,000	9.3 inches total rainfall over 4 day period	71.28/78.60

Gauge location – West Hickman Creek at Ashgrove Pike

The DMR manual requires reporting 60,000 / 100 mL when multiple dilutions do not produce a discrete value and are too numerous to count. Our review of fecal coliform analysis for the months in question indicates the reported 60,000 figure resulted in non-compliance. When the 60,000 / 100 mL data point is considered in the context of recorded stream flow measured at the downstream USGS gauging station, it is LFUCG's contention that fecal coliform exceedances had little to no impact on in-stream water quality. It should be noted that Governor Beshear declared a state of emergency for the flooding and severe storm event that occurred in April 2025.

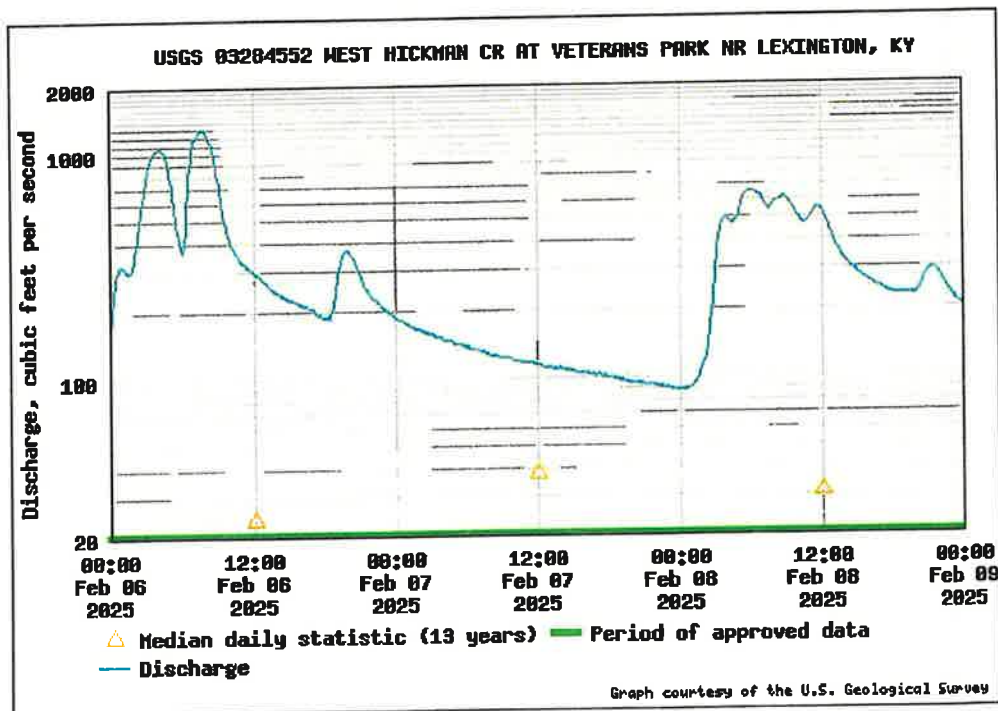
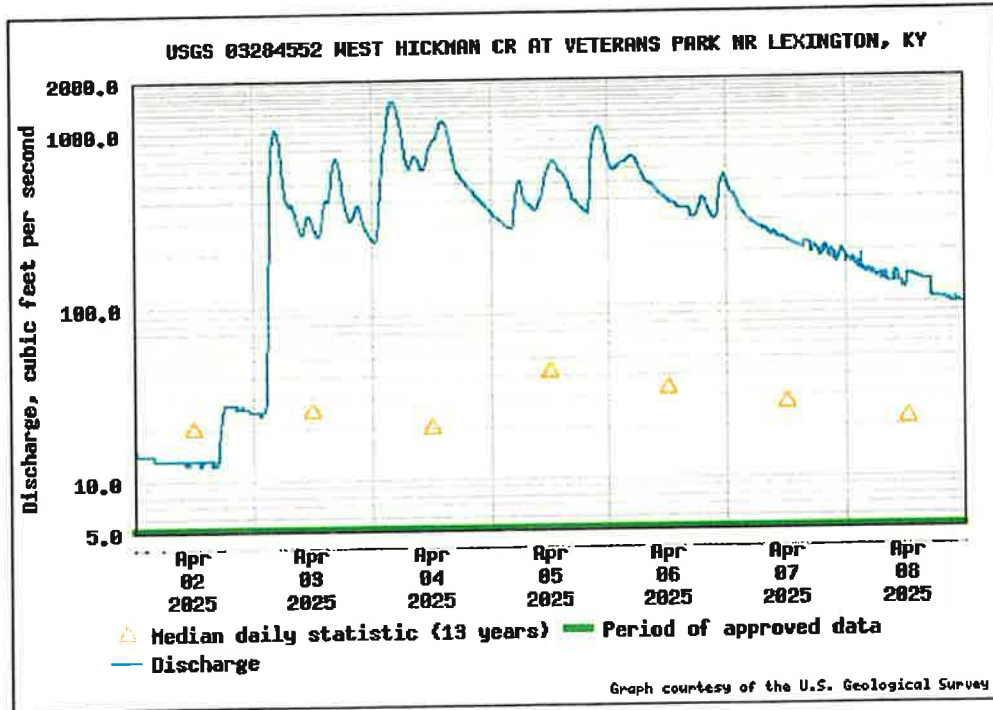
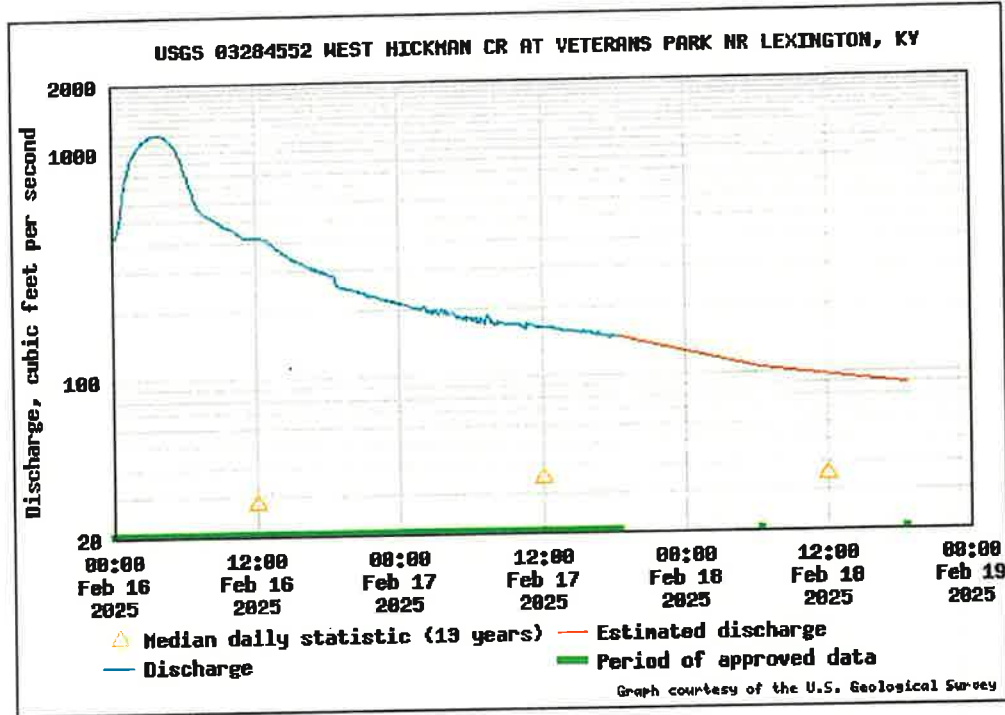


EXHIBIT A



As discussed during our conference call, Lexington is currently replacing its gaseous chlorine disinfection system with an ultraviolet system which should enhance the disinfection process during high flows.

EXHIBIT A

5. A reduction in the civil penalty from \$10,000 to \$5,000 is requested. As noted above, three of the daily maximum violations would not have been issued if the 2014 permit, as proposed, had been approved. Item 2 above provides a detailed explanation regarding the total phosphorus violation and demonstrates LFUCG's 2025 efforts towards correcting the 2024 non-compliance. Item 4 provides context regarding the fecal coliform violations, which are currently being addressed as part of the \$14 M UV process installation currently underway at both LFUCG WWTPs.

If you should have any questions, please contact me at (859) 425-2400.

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


Signed

12-1-25
Date

Charles H. Martin, P.E., Director
Division of Water Quality

pc: Nancy Albright, P.E., LFUCG Commissioner of Environmental Quality and Public Works
Matthew Chancellor, Chief Plant Operations Manager

EXHIBIT B

Donate to the Team Kentucky Emergency Relief Fund at TeamKYEmergencyReliefFund.ky.gov

Kentucky.gov

Business Education Employment Family & Health Government Residents Tourism News

Gov. Beshear Declares State of Emergency Ahead of Heavy Rain

Crystal Staley or James Hatchett
502-564-2611
<https://governor.ky.gov>

Office of the Governor
700 Capitol Avenue
Frankfort KY 40601

Governor activates emergency response, price gouging laws to protect Kentuckians

FRANKFORT, Ky. (Feb. 14, 2025) – Today, Gov. Andy Beshear declared a state of emergency as a flood watch is in effect for early Saturday, Feb. 15, through midday Sunday, Feb. 16. Another 2 to 5 inches of rainfall is expected, and, combined with previous rainfall over the past several days, will likely result in flooding across the state.

Significant flooding is possible, including widespread areal, river and isolated flash flooding. According to the National Weather Service, river flooding is very likely this weekend through next week. Significant flooding is expected where the heaviest rain falls.

"We want everyone to be careful," Gov. Beshear said. "The amount of rain coming down will make it hard to drive, and flash flooding, especially across our roads, can create dangerous conditions. And remember, don't drive through standing water, it can have a current, and it is incredibly dangerous."

The Governor is taking action by activating the Kentucky Emergency Operations Center and units of the Kentucky National Guard to stand ready to respond. Kentucky Transportation Cabinet officials and crews are also on alert, and local emergency management leaders are working to keep Kentuckians everywhere informed.

Gov. Beshear also activated the state's emergency operations center and implemented the state's price gouging laws to protect Kentuckians from overpriced goods and services as they clean up and recover from the storm. Consumers should report price gouging to the Office of the Attorney General.

Drivers are urged to check traffic conditions before traveling at GoKy.ky.gov.

For additional preparedness tips, visit kyem.ky.gov.

###

Editor's note: [Click here](#) to view the Governor's video message and [click here](#) to view the weather slides.



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2025-210
April 2, 2025

STATE OF EMERGENCY

Beginning on April 2, 2025, and continuing, a severe weather system generating heavy rain, intense damaging winds, severe hail and tornadoes are highly likely to impact the Commonwealth of Kentucky, creating dangerous conditions including flooding, flash flooding, potential for mudslides and landslides, and causing damage to public infrastructure, utility distribution systems, and private properties; and

These conditions could endanger public health and safety and/or public and private property; and

State and local governments share responsibility for protection **of public health, safety, and security** as well as for the protection of public and private **property and for taking** appropriate actions to ensure the provision of essential public services;

NOW, THEREFORE, I, Andy Beshear, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by the Kentucky Constitution and KRS Chapter 39A, do hereby declare a State of Emergency exists in the Commonwealth of Kentucky and do hereby ORDER and DIRECT that:

1. The Division of Emergency Management within the Department of Military Affairs shall execute the Kentucky Emergency Operations Plan and, from the Kentucky Emergency Operations Center, shall coordinate the response and relief activities of all state agencies and private relief organizations in response to this emergency.
2. The Adjutant General is authorized to issue active duty orders for the mobilization of such National Guard personnel and equipment as he may determine to protect life and safety, to continue essential public services and to prevent undue loss and suffering.
3. All state agencies shall coordinate **any and all public and** emergency information and/or activities/releases related to **this emergency and the** response efforts of state agencies with the **Division of Emergency Management.**
4. All state agencies shall provide sufficient personnel required for the staffing of the Kentucky Emergency Operations Center or other command, control, and coordination points as may be designated by the Division of Emergency Management's Director and shall provide such personnel, vehicles, equipment, and other resources needed to protect life and property and to ensure continuation, **restoration and recovery of essential public services.**
5. The Finance and Administration Cabinet is directed to provide assistance with incident/disaster resource management, procurements and contracting and to fund the urgent operational and/or response of the Division of Emergency Management and the unbudgeted expenditures and obligations of other state agencies that are incurred in response to and recovery from this emergency incident and in executing **the provisions of this Executive Order.**
6. The Division of Emergency Management is authorized to request assistance, **federal, state, local, private sector, volunteer, and donated resources as may be available to minimize human suffering and to restore essential services to the**



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2025-210
April 2, 2025

general population and to assist state and local governments and individuals impacted by this emergency.

7. The Division of Emergency Management shall consult with the American National Red Cross and local officials to determine the need for emergency shelters for displaced families and shall coordinate with local government, school boards, and other organizations to determine the availability of schools and other facilities to be used as shelters during this emergency.
8. Transportation on and access to any and all public roadways in the affected area may be restricted or prohibited in the interest of public health and safety.

This Order shall be effective April 2, 2025.

A handwritten signature in cursive script that reads "Andy Beshear".

ANDY BESHEAR, Governor
Commonwealth of Kentucky

MICHAEL G. ADAMS
Secretary of State