

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Confluence)
Rivers Utility Operating Company, Inc. and)
Terry Jarrett, Receiver, for Confluence Rivers to) File No. SA-2023-_____
obtain a Certificate of Convenience and)
Necessity and to Acquire Certain Sewer Assets)

JOINT APPLICATION AND MOTION FOR WAIVER

COME NOW Confluence Rivers Utility Operating Company, Inc., and Terry Jarrett, Receiver for the sewer assets of Kenneth Jaeger located near the Lost Valley subdivision in Ralls County, Missouri (“Confluence Rivers” and “Receiver” respectively, and “Applicants” collectively), pursuant to Section 393.170, RSMo, 20 CSR 4240-2.060, 20 CSR 4240-3.305, and 20 CSR 4240-4.017, and for their *Joint Application and Motion for Waiver*, state as follows to the Missouri Public Service Commission (“Commission”):

I. Introduction

1. Confluence Rivers is a Missouri corporation with its principal office and place of business at 1630 Des Peres Rd., Suite 140, St. Louis, MO 63131. Confluence Rivers is a Missouri corporation in good standing. A certified copy of Confluence Rivers’ certificate of good standing was filed in File No. WM-2018-0116 and is incorporated herein by reference.

2. Confluence Rivers provides water service to approximately 4,400 customers and sewer service to approximately 4,600 customers in several counties in Missouri. Confluence Rivers is a “water corporation,” a “sewer corporation,” and a “public utility,” as those terms are defined in Section 386.020, RSMo, and is subject to the jurisdiction and supervision of the Commission as provided by law.

3. Confluence Rivers has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against Confluence Rivers from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this Application.

4. Terry Jarrett was appointed Receiver of the sewer assets of Kenneth Jaeger in the Circuit Court of Ralls County, Missouri, in Case No. 21RL-CV00330, on May 3, 2022. The Order appointing Mr. Jarrett as Receiver is attached as **Appendix A**.

5. Communications regarding this application should be addressed to the undersigned counsel and to:

Josiah Cox
Confluence Rivers Utility Operating Company, Inc.
1630 Des Peres Rd., Suite 140
St. Louis, MO 63131
Phone: (314) 380-8544
E-mail: jcox@cswrgroup.com

And

Terry Jarrett
Healy Law Offices, LLC
3010 East Battlefield Road, Suite A
Springfield, MO 65804
Phone : (573) 415-9379
E-mail : terry@healylawoffices.com

II. The Proposed Sale Transactions

5. Confluence Rivers proposes to acquire all or substantially all of the unpermitted sewer system assets of Mr. Kenneth Jaeger located in and near the Lost Valley subdivision in Ralls County, Missouri. Confluence Rivers seeks a Certificate of Convenience and Necessity (“CCN”) to operate the system and provide service to the public.

III. Kenneth Jaeger’s Sewage Lagoon at Lost Valley Subdivision

6. In 2004, Kenneth Jaeger, an individual last known to reside in Weslaco, Texas, constructed and has, until recently, owned the unpermitted and non-compliant sewage lagoon located near the Lost Valley subdivision.

7. In December of 2021, the Missouri Attorney General's Office filed its *Petition and Motion to Appoint Receiver* in Ralls County Circuit Court, Case No. 21RL-CV00330, citing continued violation of the Missouri Clean Water Law, §§ 644.006 through 644.150, RSMo, in that Mr. Jaeger's sewage lagoon has periodically discharged effluent into a tributary of the Salt River since its construction due to improper maintenance.¹

8. On May 3, 2022, a default judgement was entered in the above-mentioned case against Mr. Jaeger, and Receiver was appointed.

9. On June 27, 2022, Central States Water Resources, Inc. ("CSWR") entered into an *Agreement for Sale of Utility System* with Receiver. A copy of the *Agreement for Sale of Utility System* is attached as **Appendix B-C** and marked Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)(3) and (6), as it contains market specific information and information representing strategies employed in contract negotiations. CSWR proposes to purchase all the sewer system assets of Kenneth Jaeger located in and around the Lost Valley subdivision, as specifically described in, and under the terms and provisions of, the *Agreement for Sale of Utility System*.

10. Pursuant to Paragraph 18 of the *Agreement for Sale of Utility System*, CSWR plans to assign its rights under the agreement to Confluence Rivers at closing. **Appendix C** verifies the authority of Josiah Cox, the President of Confluence Rivers, to enter into the *Agreement for Sale of Utility System* and seek Commission approval of the transaction.

¹ See also: *Report and Order*, pp. 4-5, Case No. SO-2008-0358 (July 15, 2008)

11. Confluence Rivers requests permission, approval and a CCN to construct, install, own, operate, maintain, control and manage a sewer system for the public in an area of Ralls County, Missouri, as an addition to its existing service territories. A legal description of the area sought to be certificated is attached hereto as **Appendix D**. A map of the area sought to be certificated is attached as **Appendix E**.

12. Attached hereto and marked as **Appendix F-C** is a list of ten (10) residents or landowners within the proposed service area. **Appendix F-C** has been identified as “Confidential” in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)(1), as it contains customer-specific information.

IV. Additional Information

13. Attached hereto and marked as **Appendix G-C** is a feasibility study for the unpermitted sewer system for which Confluence Rivers seeks CCNs, including estimates of the number of customers, expenses and revenues during the first three (3) years of operation by Confluence Rivers. **Appendix G-C** has been identified as “Confidential” in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)(3) and (6), as it contains market specific information and information representing strategies employed in contract negotiations. To provide service to the proposed areas, Confluence Rivers will purchase an existing sewer system and will not construct systems. Thus, Confluence Rivers asks for a waiver of any requirement to provide plans and specifications related to the construction of the distribution and collection systems.

14. Confluence Rivers is not aware of any franchises or permits from municipalities, counties, or other authorities that would be required in order to provide service in the requested area.

15. The sale and purchase of the referenced assets may increase the tax revenues of

relevant political subdivisions, as Confluence Rivers is solvent and regularly pays its taxes.

V. Tariff/Rates

16. Confluence Rivers proposes to charge a flat rate of \$16.67 per month for sewer service, consistent with the current charges in its Freeman Hills service area. As the sewer assets of Kenneth Jaeger at Lost Valley subdivision were never certificated, and no tariffs were ever filed with the Commission, Confluence Rivers proposes to utilize the rules governing the rendering of service that are currently found in Confluence Rivers' existing Commission-approved tariffs for sewer service (PSC Mo No. 13) at the time of closing. Confluence Rivers would anticipate later adding the Lost Valley service area to the tariff book at issue in its pending rate case (SR-2023-0007) when compliance tariffs are ultimately filed at the conclusion of that case.

17. The current rate for this system does not reflect the current cost of providing service. Additionally, this system will require investment after the purchase by Confluence Rivers that will necessarily result in a request for a rate increase of some amount after those additions have been completed.

VI. Public Interest

18. The grant of the requested CCN (and approval of the underlying transaction) and the proposed transfer is in the public interest and will result in properly maintained and permitted sewer services being provided to the current and future residents of the service area. The system would be acquired by Confluence Rivers, a Missouri public utility, and be subject to the jurisdiction of the Commission to own and operate the sewer system for which approval is sought. As it has demonstrated to the Commission in past cases, Confluence Rivers, with the support and assistance of its affiliates, is fully qualified, in all respects, to own and operate the sewer system for which the certificate is sought. Confluence Rivers' successful operation of other water and

sewer systems in Missouri demonstrates its ability to provide safe and reliable service to customers and to comply with the Commission's rules, regulations, and decisions governing the ownership and operation of such systems. Confluence Rivers also has the financial strength and resources necessary to make expenditures and investments required to maintain the system.

VII. Motion for Waiver

19. Commission Rule 20 CSR 4240-4.017(1) requires "[a]ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case." Because it did not file such a notice within the time period prescribed by that rule, Confluence Rivers seeks a waiver of the 60-day pre-filing notice requirement.

20. Under Rule 20 CSR 4240-4.017(1)(D), a waiver of the pre-filing notice requirement may be granted for good cause. In this regard, the Applicants declare, as verified below, that they have had no communication with the Office of the Commission (as defined in 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case. Good cause for the requested waiver exists in accordance with Commission Rule 20 CSR 4240-4.017(1)(D) ("Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case...")

21. Therefore, as authorized by Rule 20 CSR 4240-4.017(1)(D), the Applicants move for a waiver of the 60-day notice requirement and acceptance of this application at this time.

WHEREFORE, for the reasons previously stated, the Applicants respectfully request the Commission issue an order:

(A) Waiving the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) for good cause shown;

(B) Authorizing Confluence Rivers to acquire the system assets of Kenneth Jaeger at

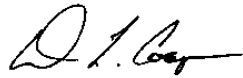
Lost Valley subdivision, as described in this Application;

(C) Authorizing the Applicants to enter into, execute, and perform, in accordance with the terms described in the agreement attached to this application, and take any and all other actions that may be deemed necessary and appropriate to accomplish the purposes of the agreement and the Application, and to consummate related transactions in accordance with the agreement;

(D) Granting Confluence Rivers a CCN authorizing it to install, acquire, build, construct, own, operate, control, manage, and maintain a sewer system for the public within the specified areas currently served by Kenneth Jaeger; and,

(E) Granting such other relief as may be deemed necessary and appropriate to accomplish the purposes of the agreements and the Application and to consummate related transactions in accordance with the agreements.

Respectfully submitted,



Dean L. Cooper MBE #36592

Jesse W. Craig MBE #71850

BRYDON, SWEARENGEN & ENGLAND P.C.

312 E. Capitol Avenue

P.O. Box 456

Jefferson City, MO 65012

(573) 635-7166 telephone

dcooper@brydonlaw.com

jcraig@brydonlaw.com

David L. Woodsmall MBE #40747

Central States Water Resources

1630 Des Peres Rd., Suite 140

Des Peres, MO 63131

dwoodsmall@cswrgroup.com

**ATTORNEYS FOR
CONFLUENCE RIVERS UTILITY
OPERATING COMPANY, INC.**

Terry Jarrett MBE#45663
Healy Law Offices, LLC
3010 East Battlefield Road, Suite A
Springfield, MO 65804
terry@healylawoffices.com

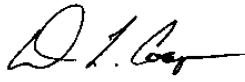
**COURT APPOINTED RECEIVER FOR THE
LOST VALLEY SUBDIVISION ASSETS**

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on January 3rd, 2023, to the following:

Office of the General Counsel
staffcounsel@psc.mo.gov

Office of the Public Counsel
opcservice@opc.mo.gov



State of Missouri)
)
County of Cole) ss

I, Terry Jarrett, having been duly sworn upon my oath, state that I am the lawfully appointed Receiver of the sewer assets of Kenneth Jaeger located near the Lost Valley subdivision in Ralls County, Missouri. ("Receiver"), that I am duly authorized to make this affidavit, that I have knowledge of the matters stated herein, and that said matters are true and correct to the best of my information, knowledge, and belief. Additionally, I have had no communication with the office of the Missouri Public Service Commission as defined in Commission Rule 20 CSR 4240-4.015(10) within the one hundred fifty (150) days immediately preceding the filing of the Application regarding any substantive issue likely to be addressed in this case.

Terry Jarrett

Subscribed and sworn before me this 4th day of January, 2023.

Betty J. Hampton
Notary Public

My Commission Expires 9/1/2026



AFFIDAVIT

State of Missouri)
)
County of St. Louis) ss

I, Todd Thomas, having been duly sworn upon my oath, state that I am the Vice President of Confluence Rivers Utility Operating Company, Inc. ("Confluence Rivers"), that I am duly authorized to make this affidavit on behalf of Confluence Rivers, that I have knowledge of the matters stated herein, and that said matters are true and correct to the best of my information, knowledge, and belief. Additionally, no representative of Confluence Rivers has had any communication with the office of the Missouri Public Service Commission as defined in Commission Rule 20 CSR 4240-4.015(10) within the one hundred fifty (150) days immediately preceding the filing of the Application regarding any substantive issue likely to be addressed in this case.

Todd Thomas

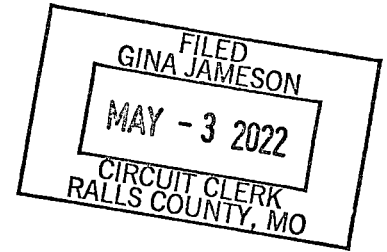
Subscribed and sworn before me this 30th day of December, 2022.

Yvette Sanders
Notary Public

My Commission Expires 02.16.25



IN THE CIRCUIT COURT OF RALLS COUNTY
10TH JUDICIAL CIRCUIT
STATE OF MISSOURI



STATE OF MISSOURI, *ex. rel.*,)
ERIC S. SCHMITT,)
Attorney General of Missouri,)
)
Plaintiff,)
)
vs.)
)
KENNETH JAEGER,)
)
Defendant.)

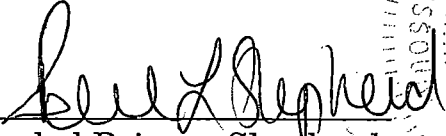
Case No. 21RL-CV00330

ORDER APPOINTING RECEIVER

TO: HEALY LAW OFFICES, LLC ATTN: TERRY JARRETT, 3010 E BATTLEFIELD, STE. A, SPRINGFIELD, MISSOURI 65804

Mr. Jarrett: this Court has appointed you Receiver over property owned by Kenneth Jaeger in Ralls County, Missouri. This property consists of a wastewater treatment lagoon, land application field, and all assets and appurtenances thereto located in the SW ¼, SE ¼, Section 14, Township 55, North, Range 7 West in Ralls County, Missouri. The parcel number is 06-0.6-14-000-00-05.00000. You shall preserve and protect the entire property, and not allow it to be subdivided, until the Public Service Commission permits a regulated entity to purchase the property. Upon sale the proceeds shall be used to reimburse the Receiver and the remainder, if any, shall satisfy the terms of the judgment lien and any other liens against the Property.

IT IS SO ORDERED



Hon. Rachel Bringer Shepherd



5-3-22

DATE

APPENDIX B-C

HAS BEEN
IDENTIFIED AS

CONFIDENTIAL

IN ITS ENTIRETY

APPENDIX B

VERIFICATION OF AUTHORITY

COMES NOW the undersigned, the President of Confluence Rivers Utility Operating Company, Inc. ("Confluence Rivers") and Central States Water Resources, Inc. ("CSWR"), and does hereby verify that CSWR had and has the requisite authority to enter into each *Agreement for Sale of Utility System* described in the Application and to carry out all the obligations contained in each *Agreement for Sale of Utility System*.

IN WITNESS WHEREOF, the undersigned has hereto set his hand the 12th day of December, 2022.



Josiah Cox, President
CONFLUENCE RIVERS UTILITY OPERATING
COMPANY, INC. and CENTRAL STATES
WATER RESOURCES, INC.

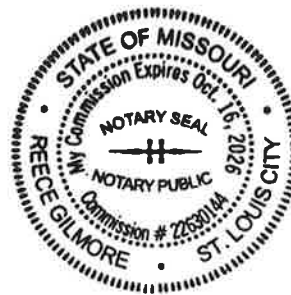
State of Missouri)
)
County of St. Louis) ss

Subscribed and sworn before me this 12th day of December, 2022.



Notary Public

My Commission Expires OCT 16th, 2026



Lost Valley MO Service Area Description:

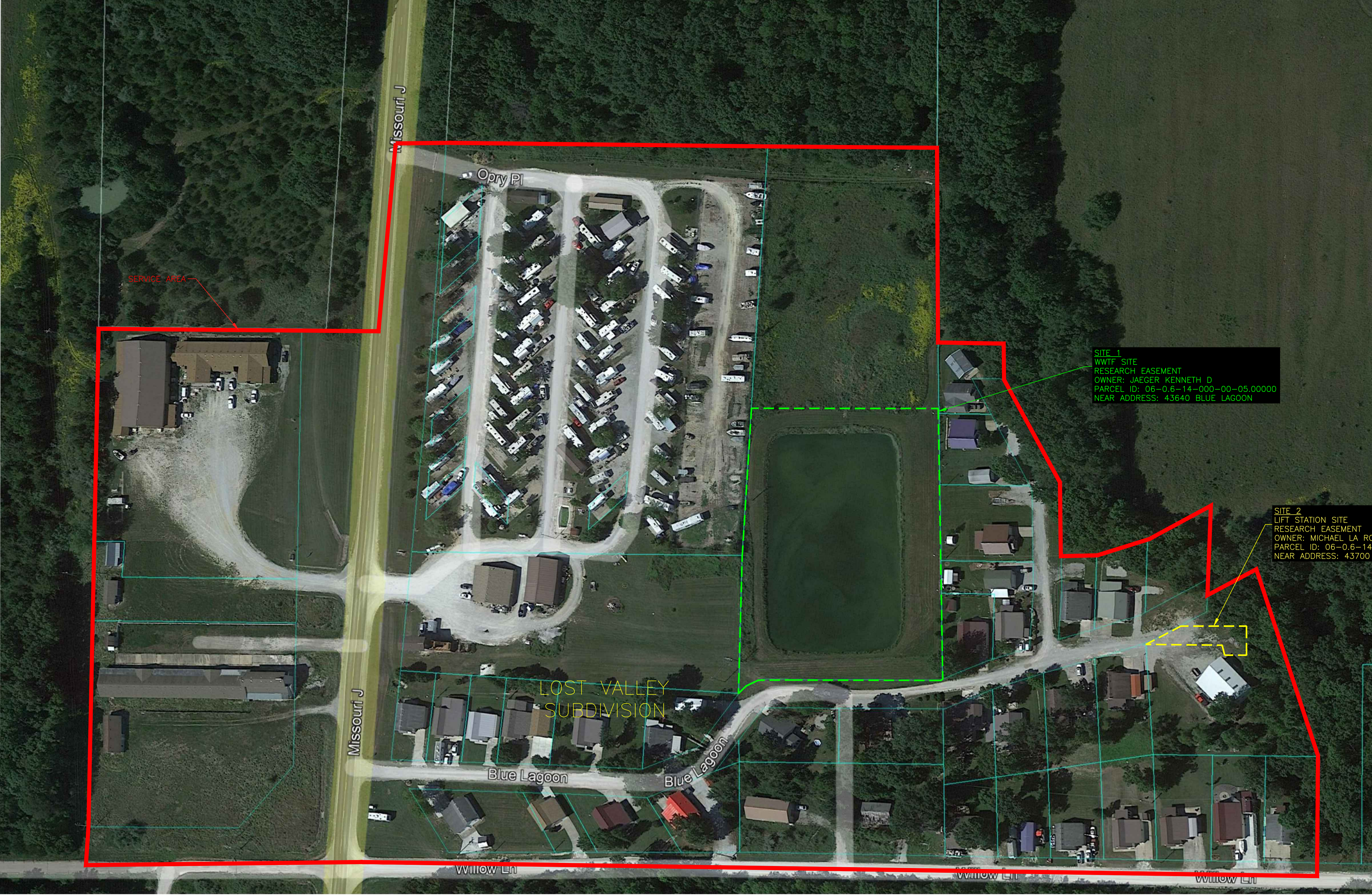
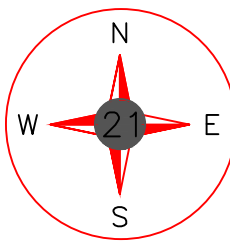
The area served is part of Ralls County, Missouri and is more particularly described as follows:

Beginning at the South Quarter Section corner of Section 14, Township 55 North, Range 7 West; thence along the south line of said Section 14, Westerly 536.64 feet, more or less; thence leaving said south line of Section 14, N1°48'07"E 769.15 feet, more or less; thence S88°39'00"E 286.86 feet, more or less to the west right-of-way line of Missouri Route "J"; thence leaving said west right-of-way line N38°29'35"E 333.27 feet, more or less to the east right-of-way line of Missouri Route "J"; thence leaving said east right-of-way line S88°37'09"E 693.54 feet, more or less; thence S0°28'25"W 274.32 feet, more or less; thence S88°26'26"E 93.00 feet, more or less; thence S0°03'08"E 50.00 feet, more or less; thence S27°44'44"E 165.64 feet more or less; thence S0°03'07"E 104.44 feet, more or less; thence N88°31'50"E 50.09 feet, more or less; thence N73°57'06"E 75.00 feet, more or less; thence N62°47'53"E 100.00 feet, more or less; thence S2°33'07"W 125.03 feet, more or less; thence N62°48'00"E 79.01 feet, more or less; thence S17°39'57"E 277.90 feet, more or less; thence S1°37'43"W 177.80 feet, more or less to the south line of said Section 14; thence along said south line, Westerly 1198.66 feet, more or less to the point of beginning, containing 32.00 acres more or less.

NOTE: This description is for exhibit only and does not represent an actual boundary survey. The surveyor did not abstract nor perform any field verification of the exhibit accuracy. The location represents approximate location only and should not be construed as being 100% accurate.

**ROUGH SERVICE AREA MAP (v1)
LOST VALLEY
(WASTEWATER)
RALLS COUNTY, MO**

Appendix E



Utility Note Disclaimer:

The service area shown hereon are depicted based on a service area map provided by the system manager. 21 Design Group, Inc performed no field verification of the layout and are unable to determine the exact location at this time. The location represents approximate location only and should not be construed as being 100% accurate. It is shown to provide general service area of the system to assist with ordering title work and preparation of scope for a License Land Surveyor. This sketch should not be used to interpret encroachments.

DATE:	6/28/2022
PROJECT NO:	0596-22
DRAWN BY:	KAR
SCALE:	
SHEET NAME:	SERVICE AREA MAP



1351 Jefferson, Suite 301
Washington, MO 63090

mail@21designgroup.net
P: 636-432-5029

APPENDIX F-C

HAS BEEN
IDENTIFIED AS

CONFIDENTIAL

IN ITS ENTIRETY

APPENDIX G-C

HAS BEEN
IDENTIFIED AS

CONFIDENTIAL

IN ITS ENTIRETY