

In the matter of Kenneth Jaeger and )  
Blue Lagoon Sewer Corp. ) Case No. \_\_\_\_\_

2. Public Counsel requests that the Commission appoint an interim receiver for the Blue Lagoon Sewer System and order the General Counsel to petition the Circuit Court for appointment of a receiver because records indicate Ken Jaeger is the owner and

operator of the Blue Lagoon sewer system, the Blue Lagoon sewer system is a “public utility” and a “sewer corporation,” and the conduct of Ken Jaeger and Blue Lagoon Corp. satisfies each of the statutory bases for the appointment of a receiver.

Records Indicate Ken Jaeger is the Owner and Operator of the  
Blue Lagoon Sewer System

3. In 2004, complaints against Blue Lagoon Sewer Corp. and Ken Jaeger were filed with the Commission regarding the Blue Lagoon sewer system serving the Lost Valley Subdivision. Case No. SC-2005-0083 was designated as the lead case for these complaints.

4. In the complaint filings, copies of bills for sewer service were provided by the complainants.<sup>1</sup> The bills indicated they were from Blue Lagoon Sewer Corp. and stated that checks were to be made payable to Blue Lagoon Sewer Corp. The address for remittance of payment listed on the bills from Blue Lagoon Sewer Corp. is the same address used by Ken Jaeger at that time.

5. Blue Lagoon Sewer Corp. is apparently a fictitious company name used by Ken Jaeger, as the Secretary of State’s Office has no record of a Blue Lagoon Sewer Corp. registered to do business in the State of Missouri. The Secretary of State’s Office does have records of a Blue Lagoon Sewer System, Inc. which was formed in 2004 and lists Kenneth Jaeger as its Registered Agent. (Attachment A) The address listed for Kenneth Jaeger matches the address used on the sewer bills sent by Blue Lagoon Corp. However, this non-profit corporation was administratively dissolved in 2006 for failure to file a correct and current annual report. (Attachment B)

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<sup>1</sup> See Notice of Complaint, 10-8-2004, Case No. SC-2005-0083.

6. A Report of Staff Investigation (2004 Staff Report) filed by the Staff of the Public Service Commission (Staff) in Case No. SC-2005-0083 indicates that a Missouri Department of Natural Resources (MDNR) “no-discharge” permit was issued to Robert Vanderbeck and Ken Jaeger in 1990.<sup>2</sup> The 2004 Staff Report states that the owners of the permit filed bankruptcy in 1999. The 2004 Staff Report also states that it appears that Ken Jaeger either bought back, or retained, ownership of the lagoon real estate since information indicates that in June of 2001 Ken Jaeger made an agreement with Ralls County State Bank, which addressed charging the RV campground lots for sewer service.

7. In November 2004, a letter was sent by Steve Mahfood, Director of MDNR, to Joseph P. Bindbeutel, chief counsel of the Environmental Protection Division of the Office of the Attorney General, stating that 31 homes were illegally connected to the Blue Lagoon sewer system lagoon owned and operated by Ken Jaeger.<sup>3</sup> The letter cites other technical problems related to the construction and operation of the Blue Lagoon sewer system and requests that the Attorney General’s office “institute appropriate legal action to prevent Mr. Jaeger from selling the remaining lots until he has obtained the necessary construction and operating permits, resolved the violations of the Missouri Clean Water Law, and paid appropriate up-front civil penalties as provided by law.”

8. On December 6, 2007, Ken Jaeger and Blue Lagoon, LLC (a newly formed limited liability corporation with Ken Jaeger’s friend, Alvin Thompson, as its sole member) jointly filed an application with the Commission an application (12-6-2007

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<sup>2</sup> Staff Recommendation, Exhibit A - Report of Staff Investigation, 12-2-2004, Case No. SC-2005-0083.

<sup>3</sup> Staff Recommendation, Exhibit B, 12-2-2004, Case No. SC-2005-0083.

Joint Application) for an order authorizing Ken Jaeger to transfer certain sewer facilities to Blue Lagoon, LLC.<sup>4</sup> This application was assigned Case No. SM-2008-0188.

9. Paragraph 1 of the 12-6-2007 Joint Application states that Ken Jaeger owns certain sewer facilities in Ralls County, Missouri, but does not have a permit to operate the lagoon there, nor has the Commission issued him a certificate of convenience and necessity to provide sewer services to the public.

10. Paragraph 7 of the 12-6-2007 Joint Application states the following:

Mr. Jaeger is a sole proprietor and has not registered a fictitious name with the Secretary of State. While Mr. Jaeger formed a Non-Profit Corporation, Blue Lagoon Sewer System, Inc, on May 24, 2004, he did not transfer any assets to the Corporation nor did he do any business in the name of the Corporation or on behalf of the Corporation. Blue Lagoon Sewer System, Inc., (N00590363) has been administratively dissolved. The sewer system has also been referred to as the Lost Valley Lagoon.

11. Paragraph 32 of the 12-6-2007 Joint Application states that Ken Jaeger has agreed to transfer the sewer system assets to Blue Lagoon, LLC at no cost to Blue Lagoon, LLC, to forfeit all rights to income and profits from the sewer system assets, and to pay \$25,000 in penalties, as ordered by the Ralls County Circuit Court.

12. In Paragraph 20.1 of the 12-6-2007 Joint Application, Ken Jaeger promises to transfer the sewer system assets to Blue Lagoon, LLC free and clear of any encumbrances.

13. Therefore, the records clearly indicate that the Blue Lagoon sewer system is owned and operated by Ken Jaeger personally.

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<sup>4</sup> Joint Application of Kenneth Jaeger and Blue Lagoon, LLC for an Order Authorizing Kenneth Jaeger, to Transfer His Assets to Blue Lagoon, LLC and Establishing a Rate for Blue Lagoon, LLC, 12-6-2007, Case No. SM-2008-0188.

The Blue Lagoon Sewer System is a Public Utility and a Sewer Corporation

14. The Blue Lagoon sewer system is a “public utility” and a “sewer corporation,” as those terms are defined in Section 386.020 RSMo (Cum. Supp. 2007).

15. In Case No. SC-2005-0083, the lead complaint case against Ken Jaeger and Blue Lagoon Sewer Corp., the original issue one was “Is the Blue Lagoon sewer system, which is owned by the Respondents and serves the Lost Valley Subdivision, subject to regulation by the Missouri Public Service Commission?”

16. In its May 9, 2007 Position Statement, Respondents Ken Jaeger and Blue Lagoon Corp. stated “In regards to issue one, Respondents admit that they qualify to be regulated by the Missouri Public Service Commission.”

17. On May 14, 2007, Public Counsel filed a Motion to Amend Issues List stating that it is the position of all parties that the Blue Lagoon sewer system, which is owned by the Respondents and serves the Lost Valley Subdivision, is subject to regulation by the Missouri Public Service Commission and issue one is no longer in controversy.

18. Public Counsel’s Motion to Amend Issues List was taken up by Judge Pridgin at the May 18, 2007 Evidentiary Hearing.<sup>5</sup> When asked if there was any response to Public Counsel’s motion, the attorney for Respondents stated “Judge, I do not have an objection to that motion in that regard.” With no objection, Public Counsel’s motion was granted.

19. By Ken Jaeger and Blue Lagoon Sewer Corp.’s own admission, the Blue Lagoon sewer system is a “public utility” and a “sewer corporation.” Therefore, as the owner of the Blue Lagoon sewer system, Ken Jaeger is subject to regulation by the Commission and is bound by the provisions of Commission law, in general, and of Chapter 393 RSMo in particular.

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<sup>5</sup>Transcript of Hearing – Volume 4, Page 48 & 50, Case No. SC-2005-0083.

Statutory Bases for Appointment of Receiver Satisfied in that Records Show

Ken Jaeger is Unwilling or Unable to Provide Safe and Adequate Sewer Service

20. The conduct of Ken Jaeger and Blue Lagoon Corp. satisfies the statutory bases for the appointment of a receiver, in that the records show Ken Jaeger and Blue Lagoon Sewer Corp. is unable or unwilling to provide safe and adequate service to its customers.

21. Ken Jaeger is no longer a resident of the State of Missouri. Ken Jaeger now lives in Texas and apparently has made no provisions for the safe and adequate operation of the Blue Lagoon sewer system.

22. As mentioned above, MDNR and the Attorney General's office has initiated legal action against Ken Jaeger for operating with out proper permits and violation of the Missouri Clean Water Law. An action against Ken Jaeger is currently pending in the Ralls County Circuit Court under State of MO ex rel. v. Ken Jaeger, Case No. 10V080500012.

23. On December 4, 2007, the Circuit Court of Ralls County made an entry in the docket sheet for that case stating that the parties had announced a global settlement where Ken Jaeger agreed to certain actions including improving the Blue Lagoon sewer system waste disposal system, as necessary to comply with the Missouri Clean Water Law.<sup>6</sup>

24. Because the agreed upon action of improving the Blue Lagoon sewer system had not been completed, on March 10, 2008 the Ralls County Circuit Court ordered Ken Jaeger to complete the following by no later than April 1, 2008: (1) Fix the lift station that is causing the collection system of the Lost Valley Subdivision to discharge wastewater into the waters of the State and install two operational pumps in said lift station and secure the cover to said lift station with a lock; and (2) Pump and haul the

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<sup>6</sup> Joint Status Report of Staff and Respondents, 12-31-2007, Case No. SC-2005-0083.

wastewater contained in the lagoon serving Lost Valley Subdivision to a permitted wastewater treatment plant until the wastewater in the lagoon is two feet from the top of the lowest point of the emergency spillway.

25. To this date, the ordered improvements to the Blue Lagoon sewer system have not been completed. On March 31, 2008, Ken Jaeger filed a notice of bankruptcy with the Ralls County Circuit Court. On April 18, 2008, the Attorney General's office filed its Suggestions in Support of Issuing an Order of Commitment against Defendant Ken Jaeger with the Ralls County Circuit Court. According to the case docket, that filing has been reviewed by the presiding judge but no order of commitment has been issued as yet. Therefore, Ken Jaeger faces the threat of incarceration if he returns to the State of Missouri.

26. Apparently, no provisions have been made for the safe and adequate operation of the Blue Lagoon sewer system now that Ken Jaeger no longer resides in Missouri. The Blue Lagoon sewer system continues to operate with out proper MDNR permits and is in violation of the Missouri Clean Water Law. The court ordered improvements have not been completed and there is no indication that they will ever be completed. Therefore, records indicate Ken Jaeger is unable or unwilling to provide safe and adequate service to his customers.

Statutory Bases for Appointment of Receiver Satisfied in that Records Show

Ken Jaeger has Actually or Effectively Abandoned the Blue Lagoon Sewer System

27. The conduct of Ken Jaeger and Blue Lagoon Corp. satisfies the statutory bases for the appointment of a receiver, in that the records show Ken Jaeger has actually or effectively abandoned the Blue Lagoon sewer system.

28. On March 28, 2008, Ken Jaeger filed a Voluntary Petition for bankruptcy, pursuant to Chapter 13 of the U.S. Bankruptcy Code. The Voluntary Petition was filed in the United States Bankruptcy Court for the Southern District of Texas, Brownsville Division, as Case No. 08-10166.

29. On April 14, 2008, Staff filed suggestions (Staff's Suggestions) in Case No. SM-2008-0188<sup>7</sup> regarding the bankruptcy of Ken Jaeger. Staff's Suggestions included copies of pages 1, 2 and 3 of Ken Jaeger's Voluntary Petition for bankruptcy, along with Schedule A (the listing of Ken Jaeger's real property), Schedule B (the listing of Ken Jaeger's personal property), Schedule G (the listing of Ken Jaeger's executory contracts and unexpired leases), the Summary of Schedules, and the answer to Question 4 of Ken Jaeger's Statement of Financial Affairs, all as filed in the said bankruptcy case.

30. Staff's Suggestions stated that, looking at the 12-6-2007 Joint Application in Case No. SM-2008-0188, it appears that Ken Jaeger has agreed to provide to Blue Lagoon, LLC sewer system assets that are valued at \$186,749.13 and to also pay the civil penalty of \$25,000 to the Ralls County Circuit Court. However, Schedules A and B do not appear to list any of the sewer system assets, nor does Schedule G, or any other document filed in the bankruptcy case, appear to list Ken Jaeger's agreement to convey the sewer system assets to Blue Lagoon, LLC, or to pay the \$25,000 civil penalty to the Ralls County Circuit Court. Also, the Summary of Schedules does not appear to list the sewer system assets or Ken Jaeger's agreement to convey the said assets to Blue Lagoon, LLC.

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<sup>7</sup> Staff's Suggestion of the Bankruptcy of Applicant Jaeger, 4-14-2008, Case No. SM-2005-0188.



31. Staff's Suggestions also notes that in the answer to Question 4 in the Statement of Financial Affairs, Ken Jaeger purports to "[l]ist all suits and administrative proceedings to which the debtor is or was a party within one year immediately preceding the filing of this bankruptcy case." The answer to this question lists five judicial or administrative proceedings, but it does not include any mention of Ken Jaeger's application to this Commission for approval of the transfer of the sewer system assets in Case No. SM-2008-0188.

32. Staff's Suggestions states that it, therefore, appears that Ken Jaeger has failed to disclose to the Bankruptcy Court important information regarding the sewer system assets, his liabilities, and the agreement to transfer the sewer system assets to Blue Lagoon, LLC.

33. Upon further review of Ken Jaeger's Voluntary Petition for bankruptcy, there are other statements made by Ken Jaeger which appear to be false, given the information in the records. In the Voluntary Petition, Exhibit C asks "Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?" The response of Ken Jaeger is "No" even though records show that he is the owner of a sewer system that is the subject of litigation by MDNR because it poses a threat to public health and safety.

34. Another statement which appears to be false can be found in the Statement of Financial Affairs, Continuation Sheet No. 4, Question 17. Environmental Information. (Attachment C) Question 17a. states "List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the

governmental unit, the date of the notice, and, if known, the Environmental Law.” Ken Jaeger checked the box for “None” and did the same for questions 17b. and 17c. which refer back to the answer given in 17a., even though records indicate he is the subject of Environmental Law litigation in the Ralls County Circuit Court for violation of the Missouri Clean Water Law.

35. Ken Jaeger is no longer a resident of the State of Missouri where the Blue Lagoon sewer system is located and apparently no provisions have been made to ensure the proper operation of the Blue Lagoon Sewer System. Ken Jaeger has refused to comply with an order of the court to make repairs to the sewer system and is facing a possible Order of Commitment if he returns to the State of Missouri. Ken Jaeger has filed bankruptcy documents which apparently attempt to disavow any ownership of the Blue Lagoon sewer system or knowledge of its threat to the public health and Environmental Laws of this state. Therefore, records indicate Ken Jaeger has actually or effectively abandoned the Blue Lagoon sewer system.

#### Conclusion

36. Records indicate Ken Jaeger is the owner and operator of the Blue Lagoon sewer system. Ken Jaeger and Blue Lagoon Corp. have admitted they qualify to be regulated by the Commission and that the Blue Lagoon sewer system is a “public utility” and a “sewer corporation.”

37. Records also indicate that Ken Jaeger is unable or unwilling to provide safe and adequate service to its customers and Ken Jaeger has actually or effectively abandoned the Blue Lagoon sewer system.

38. Therefore, it can be shown that the conduct of Ken Jaeger and Blue Lagoon Corp. satisfies the statutory bases for the appointment of a receiver.

**WHEREFORE,** Public Counsel respectfully requests the Commission grant its motion for appointment of an interim receiver and issue an order to General Counsel to petition the Circuit Court for the appointment of a receiver.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ Christina L. Baker**

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

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 1<sup>st</sup> day of May 2008:

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**/s/ Christina L. Baker**

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# Missouri Secretary of State, Robin Carnahan

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  - File Online File LLC Registration
  - File Online Online Orders
  - Register for Online Orders
  - Order Good Standing
  - Order Certified Documents

## Filed Documents

**Date:** 4/24/2008 (Click above to view  
filed documents that  
are available.)

## Business Name History

Name	Name Type
Blue Lagoon Sewer System, Inc.	Legal

## Non-Profit Corporation - Domestic - Information

**Charter Number:** N00590363  
**Status:** Admin Dissolved Nonprofit  
**Entity Creation Date:** 5/24/2004  
**State of Business.:** MO  
**Expiration Date:** Perpetual  
**Last Annual Report Filed Date:**  
**Last Annual Report Filed:** 0

## Registered Agent

**Agent Name:** Jaeger, Kenneth  
**Office Address:** 17805 Bluffview Drive  
Center MO 63436  
**Mailing Address:**

**ADMINISTRATIVE DISSOLUTION  
OR REVOCATION FOR A  
NON-PROFIT CORPORATION**

N00590363  
Blue Lagoon Sewer System, Inc.  
Jaeger, Kenneth  
17805 Bluffview Drive  
Center, MO 63436

January 5, 2006

Blue Lagoon Sewer System, Inc.  
N00590363

The above corporation has failed to comply with Section 355.706 of the Revised Statutes of Missouri (RSMo), by:

Failure to file a correct and current annual report

Therefore, the above corporation stands **administratively dissolved or revoked** under the provisions of Section 355.711 of the RSMo as of January 5, 2006, subject to rescission as in these acts provided. **A corporation administratively dissolved may not carry on any activities except those necessary to wind up and liquidate its business and affairs under Section 355.691.**



*Mark R. Reading*

Mark R. Reading  
Executive Deputy Secretary of State

Attachment B

B7 (Official Form 7) (12/07) - Cont.

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

In re: **Kenneth D. Jaeger**Case No. \_\_\_\_\_  
(if known)

**STATEMENT OF FINANCIAL AFFAIRS**

*Continuation Sheet No. 4*

**12. Safe deposit boxes**

None



List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

**13. Setoffs**

None



List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

**14. Property held for another person**

None



List all property owned by another person that the debtor holds or controls.

**15. Prior address of debtor**

None



If the debtor has moved within three years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

**16. Spouses and Former Spouses**

None



If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within eight years immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

**17. Environmental Information**

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law.

- None a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:



- None b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.



- None c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.



Attachment C