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Missouri Public  
Service Commission

IN THE CIRCUIT COURT OF RALLS COUNTY, MISSOURI

STATE OF MISSOURI ex rel.  
JEREMIAH W. (JAY) NIXON, the  
MISSOURI CLEAN WATER  
COMMISSION and the  
MISSOURI DEPARTMENT  
OF  
NATURAL RESOURCES

Plaintiff,

v.

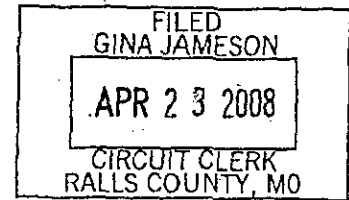
KEN JAEGER,

Defendant.

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PRO. ATTORNEY GENERAL



Case No. CV805-12CC

Order #08-WTOA-4

OPC Exhibit No. 16  
Case No(s) 50-2008-0358  
Date 6-23-08 Rptr XF

ORDER OF COMMITMENT

TO THE SHERIFF OF RALLS COUNTY, MO:

WHEREAS, On January 19, 2005, a Petition for Preliminary Injunction, Permanent Injunction and Civil Penalties was filed in the above action. A Preliminary Injunction Hearing was set for May 3, 2005 and the Defendant appeared through his attorney of record. On May 3, 2005, a Judgment and Order of Preliminary Injunction ("Judgment and Order") by Consent was entered against defendant Ken Jaeger ordering defendant to comply with the Judgment, and the Missouri Clean Water Law, Chapter 644, RSMo and the regulations adopted pursuant thereto. The Judgment and Order also required that the defendant, on or before September 30 of each year, to land apply the contents of the lagoon to the minimum operating level of two feet from the bottom of the lagoon and notify the Department when these levels have been reached. The Judgment and Order also required Defendant Jaeger to maintain and provide records to the Department showing the dates and the times of land application, the amount and rate of irrigation water and the monitoring activities conducted. Furthermore, the Judgment and Order required

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Defendant Jaeger to operate and maintain the lagoon so as to prevent the content of the lagoon from overtopping the lagoon berms.

WHEREAS, said Judgment and Order was in full force and effect on May 3, 2005, and,

WHEREAS, on March 13, 2006, Plaintiff filed a Motion for Contempt against Ken Jaeger alleging that defendant had failed and refused to comply with several terms of the Judgment and Order, and

WHEREAS, on March 21, 2006, an order was issued by this Court ordering defendant to appear and show cause why he should not be held in contempt of court and,

WHEREAS, on April 11, 2006, Defendant with counsel and Plaintiff agreed, and this court entered a Judgment of Contempt against Defendant Ken Jaeger,

WHEREAS the April 11, 2006, Judgment of Contempt found among other things, that Defendant Ken Jaeger failed to comply with the Judgment and Order in that:

- A. Defendant failed to land apply the contents of the lagoon to a minimum operating level of two feet from the bottom of the lagoon and notify the Department when these levels had been reached on or before September 30, 2005;
- B. Defendant failed to maintain and provide records to the Department showing the dates and times of the land application, the amount and rate of irrigation water and the monitoring activities conducted;
- C. Defendant was capable of complying with all requirements of the May 3, 2005, Judgment and Order.

WHEREAS, the April 11, 2006, Judgment of Contempt further ordered that Defendant Ken Jaeger bring his Lost Valley Subdivision into compliance with the Missouri Clean Water Law, Chapter 644, RSMo and the regulations promulgated thereto in the following manner:

A. Defendant Ken Jaeger was ordered to immediately comply with all aspects of the May 3, 2005 Judgment and Order, including, but not limited to:

1. Operating and maintaining the lagoon so as to prevent the contents of the lagoon from overtopping the lagoon berms;
2. Maintaining and providing records to the Department's Northeast Regional office showing the dates and times of land application, the amount and rate of irrigation water, and the monitoring activities conducted; and
3. On or before September 30 of each year, land apply the contents of the lagoon to the minimum operating level of two feet from the bottom of the lagoon and notify the Department of Natural Resources when these levels have been reached.

B. Defendant Ken Jaeger was ordered to appear before this Court on July 5, 2006 1:30 PM to report on his compliance with this Judgment of Contempt.

WHEREAS, Defendant had notice of the April 11, 2006 Judgment of Contempt, by being personally present and participating in the execution of the agreed Judgment of Contempt, and, this court scheduled the matter on July 5, 2006, at which time Defendant appeared with counsel for the purpose of determining if he complied with the terms of the May 3, 2005, Judgment and Order and the April 6, 2006, Judgment of Contempt, and

WHEREAS, on July 10, 2006, this Court found, and Defendant Ken Jaeger admitted, that he failed to comply with the May 3, 2005 Judgment and Order against Defendant Ken Jaeger and the April 11, 2006 Judgment of Contempt and Order and Adjudged ("Second Judgment of Contempt") and ordered that Defendant Ken Jaeger be again found in contempt of this Court due to his failure to comply with this Court's May 3, 2005 Judgment and Order and this Court's April 11, 2006, Judgment of Contempt against Defendant Ken Jaeger, and

WHEREAS, this Court further ordered that defendant Jaeger bring his Lost Valley Subdivision into compliance with the Missouri Clean Water Law, Chapter 644, RSMo, and regulations promulgated thereto, in the following manner:

A. Defendant Ken Jaeger was ordered to immediately comply with all aspects of the May 3, 2005, Judgment and the April 11, 2005, Judgment of Contempt against Defendant Ken Jaeger. The May 3, 2005, Judgment and Order and the April 11, 2006, Judgment of Contempt remained in full force and effect, including but not limited to:

1. Operating and maintaining the lagoon so as to prevent the contents of the lagoon from overtopping the lagoon berm;
2. Maintaining and providing records to the Department's Northeast Regional office showing the dates and times of land application, the amount and rate of irrigation water, and the monitoring activities conducted; and
3. On or before September 30 of each year, land apply the contents of the lagoon to the minimum operating level of two feet from the bottom of the lagoon and notifying the Department of Natural Resources when these levels have been reached.

B. The court ordered Defendant Ken Jaeger to appear before this court on September 6, 2006, at 1:30 to report on his compliance with his Second Judgment of Contempt. The Second Judgment of Contempt notified Ken Jaeger that if he failed to comply with the Second Judgment of Contempt, the Court would consider utilizing any and all extraordinary remedies so as to achieve compliance with the Judgment and Orders of this Court, including, but not limited to, incarcerating Defendant Ken Jaeger, and,

WHEREAS, Defendant had notice of July 10, 2006 Second Judgment of Contempt, by being personally present with counsel and participating in the execution of the agreed Second Judgment of Contempt,

WHEREAS, on September 6, 2006, November 7, 2006, January 2, 2007, March 6, 2007, May 1, 2007, June 24, 2007, August 1, 2007, December 4, 2007, and March 4, 2008, this Court held hearings to determine if the defendant was in compliance with the previous judgments and orders of this Court and issued further orders ("further Orders") against defendant Jaeger to remain in compliance with the Missouri Clean Water Law and relevant regulations and all previous orders of this court, including but not limited to:

- A. Operating and maintaining the lagoon so as to prevent the contents of the lagoon from overtopping the lagoon berm;
- B. Maintaining and providing records to the Department's Northeast Regional office showing the dates and times of land application, the amount and rate of irrigation water, and the monitoring activities conducted; and
- C. On or before September 30 of each year, land apply the contents of the lagoon to the minimum operating level of two feet from the bottom of the

lagoon and notifying the Department of Natural Resources when these levels have been reached.

WHEREAS, this Court calls this matter in open court to determine if Defendant has complied with the May 3, 2005 Judgment and Order, the April 11, 2006 Judgment of Contempt, the July 10, 2006 Second Judgment of Contempt, and further orders against Defendant Ken Jaeger. Evidence was presented. This Court finds that Defendant Jaeger, with full and complete knowledge of the May 3, 2005 Judgment and Order, the April 11, 2006 Judgment of Contempt, the July 10, 2006 Second Judgment of Contempt, and further orders has willfully failed and refused to comply with the May 3, 2005 Judgment and Order, the April 11, 2006 Judgment of Contempt, the July 10, 2005 Second Judgment of Contempt, and further orders in that Defendant Ken Jaeger has failed to:

- A. Operate and maintain the lagoon so as to prevent the contents of the lagoon from overtopping the lagoon berms;
- B. Maintain and provide records to the Department's Northeast Regional office showing the dates and time of land application, the amount and rate of irrigation water, and the monitoring activities conducted;
- C. On or before September 30 of each year, land apply the contents of the lagoon to a minimum operating level of two feet from the bottom of the lagoon and notify the Department when this level is reached; and
- D. Prevent his wastewater collection system serving Lost Valley Subdivision from violating the Clean Water Law, Chapter 644 RSMo. by allowing the wastewater in the collection lines to discharge to water of the State.

WHEREAS, This court finds that the Defendant has the ability to perform these acts, and

WHEREAS, Defendant is hereby judged guilty of Contempt of Court because of his said refusal to comply with the May 3, 2005 Judgment and Order, the April 11, 2006 Judgment of Contempt, the July 10, 2006 Second Judgment of Contempt, and further Orders of this Court in that:

- A. Defendant has failed to operate and maintain the lagoon serving Lost Valley Subdivision so as to prevent the contents of the lagoon from overtopping the lagoon berms;
- B. Defendant has failed to maintain and provide records to the Department's Northeast Regional office showing the dates and time of land application, the amount and rate of irrigation water, and the monitoring activities conducted;
- C. Defendant failed to, on or about September 30 of each year, land apply the contents of the lagoon to a minimum operating level of two feet from the bottom of the lagoon and notify the Department when this level is reached; and
- D. Defendant has violated the Missouri Clean Water Law, Chapter 644 and the regulations adopted pursuant thereto by allowing the wastewater collections system serving his Lost Valley Subdivision to discharge wastewater to waters of the State without a valid Missouri State Operating Permit.

Now, therefore, you are commanded to attach Ken Jaeger and commit him to the County Jail of Ralls County, Missouri, until such time as he has purged himself of Contempt by:

1. Fixing the lift station that is causing the collection system of the Lost Valley Subdivision to discharge wastewater into waters of the State. Defendant shall install two operational pumps in said lift station and secure the cover to said lift station with a lock.

2. Pumping and hauling the 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.

22nd  
DATED THIS 1<sup>st</sup> DAY OF APRIL, 2008.

  
HONORABLE ROBERT M. CLAYTON,  
Circuit Judge.

