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STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Bob Holden, Governor • Stephen M. Mahfood, Director Missouri Public Service Commission

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5.200 Ken Jaeger Lagoon
(Formerly Known as Salt River Opry)
Ralls County

October 14, 2003

CPC Exhibit No. 2
Case No(s) SO-2008-0358
Date 6-23-08 Rptr KF

Mr. Ken Jaeger
17805 Bluff View Drive
Center, MO 63436

NOTICE OF VIOLATION

Dear Mr. Jaeger:

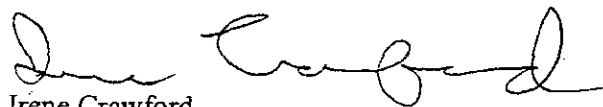
Enclosed is the Report of Investigation on an investigation that was conducted on September 12 and 15, 2003, by Mr. Nick Hill of the Missouri Department of Natural Resources' Northeast Regional Office. This investigation was conducted in response to environmental concerns received regarding the operation of your lagoon, which is located adjacent to the Salt River Resort in Ralls County, Missouri. Concerns reported to the Northeast Regional Office included pumping of the lagoon into a tributary to Salt River as well as an odorous flow in the tributary downstream of the lagoon.

Please find enclosed Notice of Violation #1673NE, which is being issued for an unauthorized discharge from your lagoon. A written response is to be submitted to the Northeast Regional Office by **November 14, 2003** containing the information requested in this report.

Should you have any questions regarding this matter, please contact Mr. Hill at (660) 385-2129 in the Northeast Regional Office, 1709 Prospect Drive, Macon, MO 63552.

Sincerely,

NORTHEAST REGIONAL OFFICE


G. Irene Crawford
Regional Director

GIC/nhp

Enclosures: Report of Investigation, Notice of Violation #1673NE, Form B-Application for Operating Permit, Form I-Application for Wastewater Irrigation Systems

c: Water Pollution Control Program, Enforcement Section

Integrity and excellence in all we do



OPC-2

**REPORT OF INVESTIGATION
KEN JAEGER LAGOON DISCHARGE
RALLS COUNTY
October 14, 2003**

INTRODUCTION

A discharge investigation of the Ken Jaeger Lagoon was initiated during an environmental investigation in Ralls County by Mr. Nick Hill of the Missouri Department of Natural Resources' Northeast Regional Office on September 12 and 15, 2003. Notification of the investigation was provided to Mr. Jaeger to facilitate entry to the lagoon and surrounding property. Mr. Jaeger, owner of the lagoon, granted the inspector access to the site. This report presents the findings and observations made during the investigation.

The legal description of the lagoon is the SW¼, SE¼, Section 14, Township 55 North, Range 7 West, in Ralls County. The lagoon is located on the east side of Highway J, approximately one mile north of Clarence Cannon Dam.

LAGOON HISTORY/DESCRIPTION

The lagoon, formerly owned by Mr. Robert Vanderbeck, was originally constructed under Letter of Approval #LOA 2001993-C, which was issued on August 24, 1990. The name of the facility at this time was the Salt River Opry. On May 13, 1996, the Northeast Regional Office received an Application for General Permit from Mr. Vanderbeck for the operation of a no-discharge lagoon. A letter dated August 7, 1997, sent by the department to Mr. Vanderbeck, indicated that a general permit for a domestic wastewater facility was not available. Another letter from the department, dated December 11, 1998, indicated that the lagoon required an operating permit unless it met the department's definition of a no-discharge facility and received a design flow of less than 3,000 gallons per day. On January 13, 1999 the Northeast Regional Office received an application for an operating permit for the lagoon from Mr. Vanderbeck. There is no record of an operating permit being issued.

On August 27, 1999, an inspection of the lagoon was conducted by the Northeast Regional Office. Mr. Jaeger, current owner of the lagoon, was present during the inspection. During the inspection, it was noted that the lagoon was generally well maintained and the lagoon freeboard was noted to be approximately four feet. The inspection report also indicated that irrigation from the lagoon had not been necessary as of the date of the inspection. The inspector recommended to Mr. Jaeger that irrigation equipment be purchased, or a contract for hauling or irrigation be obtained.

On April 8, 2003 the Northeast Regional Office received a telephone call regarding the Ken Jaeger Lagoon. The caller inquired about what type of permit was required for the lagoon. The caller also indicated that Mr. Jaeger was building a subdivision that would also be connected to the lagoon. An onsite investigation was conducted by the department on April 15, 2003 as a response to the call. At the time of investigation, there was not a discharge from the lagoon. Mr. Jaeger indicated that the flow into the lagoon was less than 3,000 gallons per day, and that the lagoon was a no-discharge system.

**Report of Investigation
Ken Jaeger Lagoon Discharge
October 14, 2003
Page 2**

On September 15, 2003, the Northeast Regional Office received water usage records for the properties using Ken Jaeger's no-discharge lagoon. According to these records, provided by Cannon Water Supply District #1, the properties connected to the lagoon used greater than 3,000 gallons per day during the months of June and July, 2003. By exceeding the 3,000 gallons per day maximum, the facility would not be considered a permit exempt system as defined by the department. In addition, since a discharge did occur, the facility no longer meets the department's definition of a no-discharge facility.

COMPLIANCE ISSUES

COMPLIANCE DETERMINATION

Due to an unauthorized discharge to a tributary to Salt River, waters of the state, which violated Water Quality Standards general criteria for unsightly color, it has been determined that the Ken Jaeger Lagoon is in **non-compliance** with the Missouri Clean Water Law and the Clean Water Commission Regulations.

FINDINGS FOR NOTICE OF VIOLATION

1. Mr. Ken Jaeger operated, used or maintained a water contaminant source, a domestic wastewater lagoon, which discharged to a tributary to Salt River, waters of the state, without a Missouri State Operating Permit authorizing such a discharge, in violation of Sections 644.051.2 and 644.076.1 RSMo. and 10 CSR 20-6.010 (1) (A) and (5) (A).
2. Mr. Ken Jaeger discharged water contaminants into waters of the state which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water Commission, in violation of Sections 644.051.1 RSMo. and 10 CSR 20-7.031 (3) (C).

Required Actions: Mr. Ken Jaeger must provide a written report to the Northeast Regional Office outlining in detail what caused the discharge and what steps were taken to mitigate the incident. Additionally, the response should provide what steps will be taken to prevent a recurrence of future incidents.

DISCUSSION OF INVESTIGATION AND OBSERVATIONS

On September 12, 2003, at approximately 1100 hours, I arrived at Salt River Resort located on Highway J approximately one mile north of Clarence Cannon Dam in Ralls County. I arrived to conduct an environmental investigation in response to a citizen's concern that wastewater was being pumped from a lagoon at the property and into a tributary to Salt River. Upon arrival at the site, I spoke with the owners of Salt River Resort. The owners indicated that the lagoon serving the resort was owned by Mr. Ken Jaeger. They also indicated that pumping from the lagoon had occurred on September 10 and 11, 2003. The owners of the resort also provided the department with photographs taken during the pumping activities of September 11, 2003.

Report of Investigation
Ken Jaeger Lagoon Discharge
October 14, 2003
Page 3

Mr. Jaeger was contacted on site, and I explained the reason for the investigation. Mr. Jaeger explained that he had irrigated wastewater from the lagoon on September 10 and 11, 2003. He stated that a pump had been run four separate times for a duration of about three hours each time. He also said the field was monitored for runoff during the irrigation activities, and no runoff had occurred.

The irrigation field was observed with Mr. Jaeger accompanying. The field appeared to be about four acres in size. Mr. Jaeger explained that a pump was set up on the northern lagoon berm, and the lagoon water was pumped directly north and into a pipe used to distribute the flow onto the irrigation field. At the time of inspection, the pump had been removed. I observed the pipe that was used to distribute the flow. The pipe was approximately 40 feet long, four inches in diameter, and contained numerous holes used to distribute the flow.

I asked Mr. Jaeger how much water had been pumped from the lagoon during the irrigation. He did not know how much had been pumped, but said the lagoon was nearly full when he began pumping. I observed the lagoon and it appeared that approximately 18 to 24 inches had been pumped out. I then walked the perimeter of the lagoon to determine the size to get an idea of how much water had been pumped out. The lagoon was approximately 350 feet by 220 feet in size, which is equivalent to 77,000 square feet of surface area. Based on the estimate that 18 inches had been pumped out, this would be equivalent to 115,500 cubic feet or about 866,000 gallons. I then told Mr. Jaeger that the tributary to Salt River, located just east of the irrigation field, would be inspected to determine if a discharge had occurred. Mr. Jaeger did not accompany during the observation of the tributary.

A wetted path from the irrigation field to the tributary to Salt River was observed. The tributary was then observed at the point where it appeared runoff from the irrigation field had entered. The area north (upstream) of this point was inspected and found to be dry. The area south (downstream) of this point contained several pools of water, which were green in color, as well as deposits of green solids. I then walked downstream in the tributary to where it intersected with Willow Lane southeast of the lagoon. No dead or distressed aquatic life was observed as I traveled downstream in the tributary. Although no dead or distressed aquatic life was observed, it was apparent that a discharge had occurred. Photographs were taken while inspecting the tributary.

Before leaving the area, I again spoke with Mr. Jaeger. I indicated that a discharge from the irrigation area had occurred. It appeared that the irrigation system used, along with the amount of water pumped from the lagoon allowed water to run off of the irrigation field. I told Mr. Jaeger that such a discharge was not permitted. I also asked Mr. Jaeger how many additional houses would be built near the lagoon. He indicated that he did not know how many more units would be constructed.

**Report of Investigation
Ken Jaeger Lagoon Discharge
October 14, 2003
Page 4**

I returned to the area on September 15, 2003 in response to another environmental concern reported to the department's Environmental Emergency Response line on September 14, 2003. During the second visit I conducted a complete visual survey of the tributary to Salt River. I walked the tributary from the point of the discharge to where the tributary met Salt River. The length of the tributary from the lagoon to Salt River was approximately two and one half miles. There was a slight flow in the tributary at the time of inspection.

The tributary was observed to determine if there was an environmental impact further downstream from the point of discharge. During the visual inspection of the tributary, no dead or distressed aquatic life was observed. Numerous live frogs, minnows, and snakes were observed in the tributary at the time of inspection.

SUMMARY

The observations made on September 12, 2003 indicate that a discharge from the lagoon had occurred into a tributary to Salt River. Therefore, Notice of Violation #1673NE is being issued to Mr. Ken Jaeger for discharging without a Missouri State Operating Permit and violating Water Quality Standards. Any discharges without a permit authorizing such a discharge may be subject to enforcement action by the Department of Natural Resources' Water Pollution Control Program.

Because the facility no longer meets the definition of a no-discharge facility, the department is requiring that Mr. Ken Jaeger apply for and obtain a Missouri State Operating Permit for the lagoon. Form B "Application for Construction or Operating Permit for Facilities Which Receive Basically Domestic Waste" and Form I "Permit Application for Construction and Operation of Wastewater Irrigation Systems" are included with this report. These forms must be completed and returned to the department to apply for an operating permit for the facility.

Since this facility serves multiple properties with multiple property owners, another issue that must be resolved is the establishment of a clear continuing authority that is responsible for upkeep and maintenance of the structure. According to 10 CSR 20-6.010 (3) (A), all applications for operating permits shall show, as part of their application, that a permanent organization exists which will serve as the continuing authority for the operation and maintenance and modernization of the facility for which the application is made. First time operating permits shall not be issued unless the applicant provides such proof to the department.

One option, which satisfies the continuing authority requirement, would be the formation of a homeowner's association. To form a homeowner's association, you may want to contact an attorney. The association must own the facility and have valid easements for all sewers. The document establishing the association must impose covenants on the land of each property owner that assures the proper operation, maintenance and modernization of the facility including, at a minimum:

**Report of Investigation
Ken Jaeger Lagoon Discharge
October 14, 2003
Page 5**

1. The power to regulate the use of the facility.
2. The power to levy assessments on its members and enforce these assessments by liens on the properties of each owner.
3. The power to convey the facility to a higher continuing authority such as a sewer company, public sewer district or municipality.
4. The requirement that members connect with the facility and be bound by the rules of the association.

Additionally, the newly formed association must be a corporation in good standing, registered with the Missouri Secretary of State's Office.

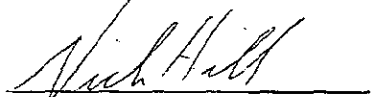
REQUIRED ACTIONS: By November 14, 2003, please provide the following to the Northeast Regional Office:

1. A written response to Notice of Violation #1673NE, containing the information requested in this report.
2. A written explanation of what is connected to your lagoon presently and what will be connected in the future. Also, provide information clarifying who owns the properties connected to the lagoon.
3. A written response indicating a timeline by which you can establish a homeowner's association (or other type of continuing authority) and submit the application for a Missouri State Operating Permit.

The lagoon system may also be regulated by the Public Service Commission. The commission should be contacted to determine if the system would be regulated as a sewer entity.

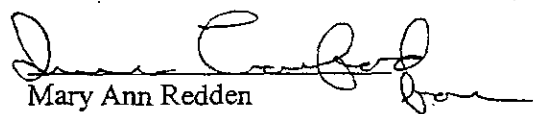
Since you are currently operating the facility without a permit, it is imperative that you continue to progress toward obtaining a permit in order to avoid enforcement action by the department. Please contact the department if any questions arise about what is required to bring the facility into compliance.

SUBMITTED BY:



Nick Hill
Environmental Specialist I
Northeast Regional Office

REVIEWED BY:



Mary Ann Redden
Environmental Specialist IV
Northeast Regional Office

NH/ps



MISSOURI DEPARTMENT OF NATURAL RESOURCES
NOTICE OF VIOLATION

10-16-03

VIOLATION NUMBER

1673NE

DATE AND TIME ISSUED

October 14, 2003

SOURCE (NAME, ADDRESS, PERMIT NUMBER, LOCATION)

Ken Jaeger Lagoon

SW 1/4, SE 1/4, Section 14, Township 55 North, Range 7 West, Ralls County

MAILING ADDRESS

17805 Bluff View Drive

CITY

Center

STATE

MO

ZIP

63436

NAME OF OWNER OR MANAGER

Ken Jaeger

TITLE OF OWNER OR MANAGER

Lagoon Owner

LAW, REGULATION OR PERMIT VIOLATED

(1) Sections 644.051.2 and 644.076.1 RSMo. and 10 CSR 20-6.010 (1) (A) and (5) (A).

(2) Section 644.051.1 (2) RSMo. and 10 CSR 20-7.031 (3) (C).

NATURE OF VIOLATION

DATE(S):

TIME(S):

(1) Ken Jaeger operated, used or maintained a water contaminant source, a domestic wastewater lagoon, which discharged to a tributary to Salt River, waters of the state, without a Missouri State Operating Permit authorizing such a discharge.

(2) Ken Jaeger discharged water contaminants into waters of the state which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water Commission.

SIGNATURE (PERSON RECEIVING NOTICE)

Sent Certified Mail

TITLE OR POSITION

SIGNATURE (PERSON ISSUING NOTICE)

TITLE OR POSITION

Environmental Specialist

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1. Article Addressed to: <i>Ben Jarger 1705 Bluff View Dr Centon, MO 63434</i>	
2. At (M) <i>7003 1010 0004 1719 6310</i>	