

FILED

JUL 8 2008

IN THE CIRCUIT COURT OF RALLS COUNTY, MISSOURI Missouri Public
Service Commission

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.)

CRC Exhibit No. 6
Case No(s) 50-2008-0358
Date 6-23-08 Rptr KF

Case No. CV805-12CC

JUDGMENT AND ORDER OF PRELIMINARY INJUNCTION
AGAINST DEFENDANT KEN JAEGER

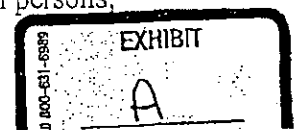
The matter before this Court is Plaintiffs, State of Missouri, ex rel Nixon's, Request for Preliminary Injunction against Defendant Ken Jaeger to bring his Lost Valley Subdivision development into compliance with the Missouri Clean Water Law so as to prevent further violations of the Missouri Clean Water Law and relevant regulations, and protect the waters of the State of Missouri. The parties appeared and stipulate to the following Judgment and Order:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. For the purposes of this Judgment, this Court has jurisdiction over the subject matter of this action and over the parties. The subject matter of this action involves allegations of violations of Missouri Clean Water Law found in Chapter 644, RSMo, and its implementing regulations, pertaining to the development and operation of the Lost Valley Subdivision and the lagoon serving the Lost Valley Subdivision located in Ralls County, Missouri.

2. The provisions of this Consent Judgment shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, assigns, and to all persons,

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firms, corporations and other entities who are, or who will be, acting in concert or privity with, or on behalf of the parties to this action or their agents, servants, employees, heirs, successors, and assigns.

3. Defendant is ordered and preliminarily enjoined to obey, abide by and comply with this Order, and Chapter 644, RSMo, and the regulations adopted pursuant thereto.

Engineering Report

4. Within twenty (20) days of the date of Order, defendant Jaeger is ordered to submit to the Department, for Department review and approval, a preliminary engineering report for a no-discharge wastewater treatment system and collection system that contains information required in 10 CSR 20-8.020 and 10 CSR 20-8.110 - 10 CSR 20-8.220. The preliminary engineering report shall include, but is not limited to, the following information:

- a. the current dimensions of the lagoon, which shall include length, width and depth in one-foot increments of depth;
- b. the location of an emergency spillway for the lagoon and a location that discharges wastewater away from established and/or future home sites;
- c. the design permeability of the pond seal;
- d. an estimation of compaction of the seal;
- e. a map of the irrigation site depicting the wetted application area, set back distances and any other descriptions to limitations of irrigation on the area, and the distance from the wetted application area to: existing and proposed dwellings; public use areas, property line, roads and/or highways, sinkholes, losing streams, other structure or physiographic feature that may provide a direct connection between groundwater and surface, existing potable water supply wells;

f. an operation and maintenance manual for the collection system, lagoon and land application site;

Lagoon Pump Down and Maintenance

5. On or before May 15, 2005, defendant Jaeger is ordered to land apply the contents of the lagoon so as to achieve two feet of freeboard and notify the Department of Natural Resources when these levels have been reached.

6. On or before September 30 of each year, defendant Jaeger is ordered 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 of Natural Resources when these levels have been reached.

7. At all times in the future, Defendant Jaeger is ordered to operate and maintain the lagoon so as to prevent the contents of the lagoon from overtopping the lagoon berms.

8. Defendant Jaeger is ordered to notify the Department of Natural Resources' Northeast Regional Office on the morning of the day when any and all land application activity takes place. Such notice shall consist of a telephone call to DNR at (660) 385-8000.

9. Defendant Jaeger is ordered to maintain and provide 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.

10. Defendant Jaeger is ordered to own and maintain all necessary equipment, fuel, and labor to effectively conduct all land application activities required by this Order.

11. Defendant Jaeger is ordered to own and maintain all necessary maintenance, replacement parts, and labor for operation of the lift station and all sewer collection lines serving Lost Valley Subdivision.

12. Defendant Jaeger is ordered to mow and maintain the lagoon berm, maintain a parameter fence around the lagoon, provide a locked entry gate to the lagoon, and to install and maintain appropriate warning signs on the parameter lagoon fence.

Electricity and Sewer Bills

13. Defendant Jaeger is ordered to fully pay the electric bill for the electricity servicing the lift station at Lost Valley Subdivision so as to assure continued electric service be provided to the sewage system.

14. Defendant Jaeger is ordered to utilize monies received from the collection of sewer bills solely and exclusively for the operation and maintenance of the collection lines, lagoon and land application site.

Construction Permit for the Collection System

15. Within twenty (20) days of the date of this Order defendant Jaeger shall submit to the Department, for Department review and approval, a construction permit application, with appropriate fees, for the collection system serving Lost Valley Subdivision. If the Department comments on the application or determines the application to be incomplete, defendant Jaeger shall address and satisfy said Department comments and resubmit a completed application within fifteen (15) days of the date of the Department comment letter. Defendant Jaeger shall complete construction within sixty (60) days of the issuance of the construction permit.

Missouri State Operating Permit

16. Within thirty (30) days of the entry of this Order, defendant Jaeger shall submit to the Department, for Department approval, an application for a Missouri State Operating Permit for the lagoon serving the Lost Valley Subdivision. If the Department comments on the application or determines the application to be incomplete, defendant Jaeger shall address and

satisfy said Department comments and resubmit a completed application within fifteen (15) days of the date of the Department comment letter. Said application shall include the appropriate fees and shall contain the establishment and identity of the continuing authority as required by Missouri State regulations. Upon issuance of said permit by DNR, Jaeger shall comply with its terms.

Capacity Limitation

17. In order to prevent wastewater hydraulic overloading of the lagoon, defendant Jaeger shall impose and enforce a ban on construction of new sewer extensions that connect to the Lost Valley Subdivision lagoon until completion of a construction of a mechanical wastewater treatment facility or completion of modifications to the existing lagoon, and upon obtaining a Missouri State Operating Permit authorizing same.

Department of Natural Resources Access and Jaeger's Representative

18. Until determination of the provisions of this Order, the Department and its agents shall have authority to enter any facility covered by this order at all times for the purposes of:

- a. any monitoring progress of activity required by this order;
- b. verifying any data on information submitted to the Department in accordance with the terms of this order; and
- c. obtaining samples.

This provision in no way limits, expands or otherwise affects any right of entry held by the plaintiff pursuant to applicable federal or state laws, regulations or permits.

19. Jaeger shall immediately employ, maintain and/or hire a representative to operate and maintain the collection system, the lagoon, and the land application area so as to ensure that adequate personnel are on site to comply with the Missouri Clean Water Law and

relevant regulations. Jaeger shall immediately provide said representative's name to the Department.

General Terms

20. This Court shall retain jurisdiction to enforce the terms and conditions of this Order.

21. This Order shall terminate:

- a. when the Order set forth herein have been completed; and
- b. when defendant Jaeger has achieved complete compliance with the Missouri Clean Water Law for the collection and wastewater treatment system at the Lost Valley Subdivision and the entities being served by the wastewater treatment system.

IT IS SO ORDERED,


Robert M. Clayton, Circuit Judge

Date: 3 May 2005