

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

Robert M. Hellebusch,)	
)	
Complainants,)	
)	
v.)	Case No. SC-2005-0099
)	
Kenneth Jaeger and)	
Blue Lagoon Sewer Corp.,)	
)	
Respondents.)	

SEVENTH STATUS REPORT

Comes now the Staff of the Missouri Public Service Commission and for its *Seventh Status Report*, states to the Missouri Public Service Commission as follows:

1. On September 15, 2005, the Commission issued an *Order Directing Filing*, wherein it ordered that the Staff file a status report concerning the implementation of the Ralls County Circuit Court *Judgment and Order of Preliminary Injunction against Defendant Ken Jaeger* in State of Missouri ex rel. Jeremiah W. (Jay) Nixon, the Missouri Clean Water Commission and the Missouri Department of Natural Resources v. Ken Jaeger, Case No. CV805-12cc. The Commission also ordered the Staff to “suggest how the Commission should proceed with this case.”

2. Staff contacted the Missouri Department of Natural Resources (DNR) staff and can report the following:

a. One of the many issues being addressed by DNR and the Attorney General’s Office (AGO) is the determination as to who would be the continuing authority for the system. The crux of the issue is that the homeowners might consent to being the continuing authority only if the system is upgraded to meet standards. DNR has

reviewed the Preliminary Engineering Report and Construction Permit submitted by Respondent, and has submitted its response, but at this time there has not been an approval of either the report or permit. Until it can be determined what an upgraded system would be, the cost to upgrade the system and who would pay those costs, there is no one willing to accept the responsibility of a continuing authority.

b. On September 11, 2005, DNR Staff inspected the system and on September 19, 2005 issued a Notice of Violation (NOV) (a copy is attached) to Ken Jaeger for two specific violations as follows: 1) on September 11, 2005, operated, used, or maintained a water contaminant source, domestic sewage from lagoon, which discharges to an unnamed tributary of Salt River, waters of the state, without a Missouri State Operating Permit (MSOP) [Sections 644.051.2 and 644.076.1, RSMo and 10 CSR 20-6.010(1)(A) and (5)(A)]; and, 2) caused pollution of an unnamed tributary to Salt River, waters of the state, or placed or caused or permitted to be placed a water contaminant source in a location where it is reasonably certain to cause pollution of waters of the state [Sections 644.051.1(1) and 644.076.1, RSMo]. The DNR had also noted some operation deficiencies with regard to the wastewater land application (ordered on an interim basis by the terms of the Judgment Order referred to in previous Status Reports), including a mechanical failure while nobody was present which resulted in pollution. DNR also made recommendations for the operation of the treatment facility and the land application process. DNR has indicated that the NOV will be addressed after approval of the report and permits.

3. Because of the continuing technical and administrative issues needing to be addressed between Respondents, DNR, and AGO, Staff is of the belief that any

Commission action would be premature. Without a determination as to the final continuing authority, it is unclear as to whether the system would fall under the jurisdiction of the Commission. Staff recommends that the Commission hold the complaint in abeyance until said technical and administrative issues can be resolved.

WHEREFORE, the Staff submits its *Seventh Status Report* to the Commission.

Respectfully submitted,

DANA K. JOYCE
General Counsel

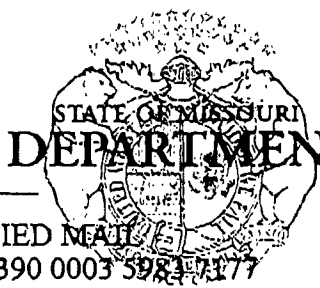
/s/ Mary E. Weston

Mary E. Weston
Assistant General Counsel
Missouri Bar No. 54669
P. O. Box 360
Jefferson City, MO 65102
(573) 751-6726
(573) 751-9285 (Fax)
mary.weston@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all parties and counsel of record on this 13th day of October 2005.

/s/ Mary E. Weston



Matt Blunt, Governor • Doyle Childers, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

CERTIFIED MAIL
#7005 0390 0003 5984 71775.200 Lost Valley Resort
Ralls County
NOV #WP0188NE
EI #NE11788

September 19, 2005

Mr. Ken Jaeger
Blue Lagoon Sewer System, Inc.
17805 Bluffview Drive
Center, MO 63436**NOTICE OF VIOLATION**

Dear Mr. Jaeger:

On September 11, 2005, the Missouri Department of Natural Resources' Environmental Services Program received an environmental report concerning a sewage release at the Lost Valley Subdivision in Ralls County. The report indicated that the responsible party was discharging a lagoon over the dam into a field, crossing a road and entering a creek. The Incident Number for the report is referenced as #0509111540MDG. The report was forwarded to the Missouri Department of Natural Resources' Northeast Regional Office.

An investigation of the environmental report was conducted by Mr. Jamie Shinn of the Missouri Department of Natural Resources' Northeast Regional Office on September 11, 2005. The investigation is referenced as EI #NE11788. Enclosed are the Report of Investigation and Notice of Violation #WP0188NE, which is being issued for violations of the Missouri Clean Water Law and Missouri Clean Water Commission Regulations.

If you have any questions regarding this letter, please direct your response to Mr. Michael Abbott at (573) 751-1300 in the Missouri Department of Natural Resources, Water Pollution Control Branch, P. O. Box 176, Jefferson City, MO 65102.

Sincerely,

NORTHEAST REGIONAL OFFICE

G. Irene Crawford
Regional Director

GIC/jsa

Enclosures: Report of Investigation, Notice of Violation #WP0188NE

c: Mr. Michael Abbott, Water Pollution Control Branch
Mr. Harry Bozoian, Attorney General's Office
Mr. James F. Lemon
Mr. Kevin Davis

Attachment