

## Petition To Revive For Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	77107492
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 112
<b>DATE OF NOTICE OF ABANDONMENT</b>	01/22/2008
<b>PETITION</b>	
<b>PETITION STATEMENT</b>	Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional. The signatory did not receive the Office action prior to the expiration of the six-month response period, and requests the USPTO to revive the abandoned application.
<b>RESPONSE TO OFFICE ACTION</b>	
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>Aqua Seal is a chemical grout used to stop water infiltration in sanitary sewer manholes. It is sold in a kit which includes twelve dual component tubes of the polyurethane grout and twelve static mixers. A heavy duty dual component caulk gun enables the grout to be expelled under pressure and the static mixer mixes the two components so that they form the fast reacting grout. The grout becomes hard foam (looks like spray foam insulation) within one to three seconds. The hardened foam plugs the hole and stops the water from infiltrating into a sanitary sewer manhole.</p> <p>There was a problem concerning our application because they thought our product was the same as the product by polycoat listed below.</p> <p>POLYCOAT-        AQUASEAL  <b>Goods and Services</b> IC 002. US 006 011 016. G &amp; S: waterproof coatings in the nature of polyurethane for concrete. FIRST USE: 19871200. FIRST USE IN COMMERCE: 19871200  <b>Serial Number</b> 74626776</p> <p>Our product is not used in the waterproof coatings industry nor is it a brush or spray applied product. Someone would not confuse a "Paint Can" of polycoat's product for our dual component caulk tubes. The only similarity is that polycoat is used on concrete floorings and our product is used on manholes which are typically made from concrete. Polycoat cannot stop leaking water like our product. Polycoat is a product found at local hardware stores and we do not sell our product there. Our product is a specialty product provided for the wastewater utility organizations and can only be purchased directly from our company or through local waterworks/utility supply stores such as Ferguson Waterworks or Pipeline Supply. Our product is used by a certified wastewater operators and an informed buyer such as this would not confuse the two aqua seal product since their use is completely different. Our product is used in confined space such as a manhole and all users must be confined space certified to use the product.</p> <p>Our product is directly marketed through our sales staff and by manufacture representatives who have other products used in the wastewater industry. We visit consulting engineers, city engineers and municipal wastewater managers and wastewater maintenance managers. We do not market to a "consumer" like polycoat does. I do not feel that the marks will confuse people into believing that the goods they identify emanate from the same source. I don't think the marks will give the same overall impression since no where does it state Polycoat. Polycoat has over a dozen products and people would be more confused about which polycoat product to choose versus going to a specialty supply store and seeing Aqua Seal and thinking some how that our product could be used to waterproof concrete. No where does it say waterproof material but it states designed to plug infiltration sources in precast or brick structures.</p> <p>We have been selling a chemical grout for over four years and decided to private label a product so that Sealing Systems can be the premier manhole infiltration specialist and have all the products necessary to fix a leaking manhole. Aqua Seal was sold in December of 2006 so <b>"The specimen was in use in commerce at least as early as the filing date of the application."</b> Sealing Systems declares that no claim is made to the exclusive right to use "SEAL" apart from the mark as shown.</p>	

<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>JPG FILE(S)</b>	<a href="\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0006.JPG">\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0006.JPG</a>
	<a href="\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0007.JPG">\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0007.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="evi_7221226136-101753653_.Aqua_Seal_Brochure.pdf">evi_7221226136-101753653_.Aqua_Seal_Brochure.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0002.JPG">\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0002.JPG</a>
	<a href="\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0003.JPG">\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0003.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="evi_7221226136-101753653_.Aqua_Seal_Instructions.pdf">evi_7221226136-101753653_.Aqua_Seal_Instructions.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0004.JPG">\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0004.JPG</a>
	<a href="\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0005.JPG">\\TICRS2\EXPORT15\771\074\77107492\xml2\POA0005.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	A brochure of our product and installation instructions illustrating its use. A Jpeg of the dual caulk tube's label is attached. A Jpeg of our logo is attached.
<b>GOODS AND/OR SERVICES SECTION (class deleted)</b>	
<b>INTERNATIONAL CLASS</b>	001
<b>DESCRIPTION</b>	
Polyurethane- Aqua Seal is a fast reacting dual component polyurethane grout that is designed to plug high water infiltration sources in brick, precast or concrete structures	
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 02/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 02/01/2007
<b>GOODS AND/OR SERVICES SECTION (class added) Original Class (001)</b>	
<b>INTERNATIONAL CLASS</b>	019
<b>DESCRIPTION</b>	
Fast reacting dual component polyurethane grout that is designed to plug high water infiltration sources in brick, precast or concrete structures.	
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 02/01/2007
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 02/01/2007
<b>FILING BASIS</b>	Section 1(b)
<b>PAYMENT SECTION</b>	
<b>TOTAL AMOUNT</b>	100
<b>TOTAL FEES DUE</b>	100
<b>SIGNATURE SECTION</b>	
<b>DECLARATION SIGNATURE</b>	/Tiffany Imker/
<b>SIGNATORY'S NAME</b>	Tiffany Imker
<b>SIGNATORY'S POSITION</b>	owner
<b>DATE SIGNED</b>	02/12/2008
<b>RESPONSE SIGNATURE</b>	/Tiffany Imker/

<b>SIGNATORY'S NAME</b>	Tiffany Imker
<b>SIGNATORY'S POSITION</b>	owner
<b>DATE SIGNED</b>	02/12/2008
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Tue Feb 12 12:52:30 EST 2008
<b>TEAS STAMP</b>	USPTO/POA-XX.XX.XXX.XXX-2 0080212125230094643-77107 492-400c65a38e0ebd6aaa1bd b14a354cff7c1f-CC-7111-20 080212101753653276

PTO Form 2194 (Rev 9/2005)  
OMB No. 0651-0054 (Exp. 11/30/2008)

## Petition To Revive For Office Action

### To the Commissioner for Trademarks:

Application serial no. **77107492** has been amended as follows:

#### **PETITION**

##### **Petition Statement**

Applicant has firsthand knowledge that the failure to respond to the Office Action by the specified deadline was unintentional. The signatory did not receive the Office action prior to the expiration of the six-month response period, and requests the USPTO to revive the abandoned application.

#### **RESPONSE TO OFFICE ACTION**

##### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

Aqua Seal is a chemical grout used to stop water infiltration in sanitary sewer manholes. It is sold in a kit which includes twelve dual component tubes of the polyurethane grout and twelve static mixers. A heavy duty dual component caulk gun enables the grout to be expelled under pressure and the static mixer mixes the two components so that they form the fast reacting grout. The grout becomes hard foam (looks like spray foam insulation) within one to three seconds. The hardened foam plugs the hole and stops the water from infiltrating into a sanitary sewer manhole.

There was a problem concerning our application because they thought our product was the same as the product by polycoat listed below.

POLYCOAT-  
AQUASEAL

**Goods and Services** IC 002. US 006 011 016. G & S: waterproof coatings in the nature of polyurethane for concrete. FIRST USE: 19871200. FIRST USE IN COMMERCE: 19871200

**Serial Number** 74626776

Our product is not used in the waterproof coatings industry nor is it a brush or spray applied product. Someone would not confuse a "Paint Can" of polycoat's product for our dual component caulk tubes. The only similarity is that polycoat is used on concrete floorings and our product is used on manholes which are typically made from concrete. Polycoat cannot stop leaking water like our product. Polycoat is a product found at local hardware stores and we do not sell our product there. Our product is a specialty product provided for the wastewater utility organizations and can only be purchased directly from our company or through local waterworks/utility supply stores such as Ferguson Waterworks or Pipeline Supply. Our product is used by a certified wastewater operators and an informed buyer such as this would not confuse the two aqua seal product since their use is completely different. Our product is used in confined space such as a manhole and all users must be confined space certified to use the product.

Our product is directly marketed through our sales staff and by manufacture representatives who have other products used in the

wastewater industry. We visit consulting engineers, city engineers and municipal wastewater managers and wastewater maintenance managers. We do not market to a "consumer" like polycoat does. I do not feel that the marks will confuse people into believing that the goods they identify emanate from the same source. I don't think the marks will give the same overall impression since no where does it state Polycoat. Polycoat has over a dozen products and people would be more confused about which polycoat product to choose versus going to a specialty supply store and seeing Aqua Seal and thinking some how that our product could be used to waterproof concrete. No where does it say waterproof material but it states designed to plug infiltration sources in precast or brick structures.

We have been selling a chemical grout for over four years and decided to private label a product so that Sealing Systems can be the premier manhole infiltration specialist and have all the products necessary to fix a leaking manhole. Aqua Seal was sold in December of 2006 so **“The specimen was in use in commerce at least as early as the filing date of the application.”** Sealing Systems declares that no claim is made to the exclusive right to use “SEAL” apart from the mark as shown.

#### **EVIDENCE**

Evidence in the nature of A brochure of our product and installation instructions illustrating its use. A Jpeg of the dual caulk tube's label is attached. A Jpeg of our logo is attached. has been attached.

#### **JPG file(s):**

[Evidence-1](#)

[Evidence-2](#)

#### **Original PDF file:**

[evi\\_7221226136-101753653\\_.Aqua\\_Seal\\_Brochure.pdf](#)

#### **Converted PDF file(s) (2 pages)**

[Evidence-1](#)

[Evidence-2](#)

#### **Original PDF file:**

[evi\\_7221226136-101753653\\_.Aqua\\_Seal\\_Instructions.pdf](#)

#### **Converted PDF file(s) (2 pages)**

[Evidence-1](#)

[Evidence-2](#)

#### **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

##### **Applicant hereby deletes the following class of goods/services from the application.**

Class 001 for Polyurethane- Aqua Seal is a fast reacting dual component polyurethane grout that is designed to plug high water infiltration sources in brick, precast or concrete structures

##### **Applicant hereby adds the following class of goods/services to the application:**

**New:** Class 019 (Original Class: 001 ) for Fast reacting dual component polyurethane grout that is designed to plug high water infiltration sources in brick, precast or concrete structures.

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Filing Basis: Section 1(a), Use in Commerce:** The mark was first used at least as early as 02/01/2007 and first used in commerce at least as early as 02/01/2007, and is now in use in such commerce.

#### **FEE(S)**

Fee(s) in the amount of \$100 is being submitted.

#### **SIGNATURE(S)**

##### **Declaration Signature**

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person,

firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Tiffany Imker/ Date: 02/12/2008

Signatory's Name: Tiffany Imker

Signatory's Position: owner

**Petition/Response Signature**

Signature: /Tiffany Imker/ Date: 02/12/2008

Signatory's Name: Tiffany Imker

Signatory's Position: owner

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

RAM Sale Number: 7111

RAM Accounting Date: 02/12/2008

Serial Number: 77107492

Internet Transmission Date: Tue Feb 12 12:52:30 EST 2008

TEAS Stamp: USPTO/POA-XX.XX.XXX.XXX-2008021212523009

4643-77107492-400c65a38e0ebd6aaa1bdb14a3

54cff7c1f-CC-7111-20080212101753653276



# AQUA SEAL

*Fast Reacting Chemical Grout*

**Easily Stops Money From Going Down The Drain!**



**Infiltration Before**



**Aqua Seal Stopping Leak**

**Aqua Seal** is an extremely reactive two component hydrophobic polyurethane water stop system that can be injected into flowing water. **Aqua Seal** is an exceptionally fast reacting (3-5 seconds), quick sealing and high early strength grout that is pumped under pressure. **Aqua Seal** is designed to plug high infiltration sources in precast or brick structures and can stop leaks in excess of 50 G.P.M. **Aqua Seal** comes packaged with twelve 600ml dual component urethane caulk tubes along with twelve static mixers.

Since only a heavy duty dual component caulking gun is required, cities can easily install Aqua Seal with their "in-house" maintenance crews. A user-friendly pneumatic gun is also available to provide a faster and more efficient installation.



**Sealing Systems, Inc.**

9350 County Road 19 ♦ Loretto, MN 55357 ♦ 800-478-2054 ♦ Fax 763-478-8868 ♦ [www.ssisealingsystems.com](http://www.ssisealingsystems.com)



# AQUA SEAL

## *How much money can Aqua Seal save you?*

One manhole leaking 5 G.P.M. will leak 7,200 gallons per day!  
If the cost of treating wastewater is \$2.50 per thousand gallons, then this single manhole with a 5 G.P.M. leak cost \$6,570 per year.  
**That is \$6,570 per year forever.**

## **Installation Instructions**

- 1. Locate leak and drill a 5/8" hole to intersect leak path at 45°.**
- 2. Remove black connecting nut from top of tubes.**
- 3. Slide nut over mixer.**
- 4. Tap mixer element into hole (pointed end first) until snug.**
- 5. Holding tubes vertically, remove the tube end caps from top of each tube.**  
**\*\*\*Keep tubes vertical, insert into gun. You are now ready to connect caulk tubes to mixer.**
- 6. QUICKLY locate end of tubes and matching end of mixer and screw together with black connecting nut.**
- 7. Pump gun into hole until refusal or foam shows.**
- 8. IMMEDIATELY press release tab at rear of gun.**
- 9. If only "partial" tubes are used, disconnect from mixer and insert tube end caps.**

**Please read MSDS sheet before using Aqua Seal**

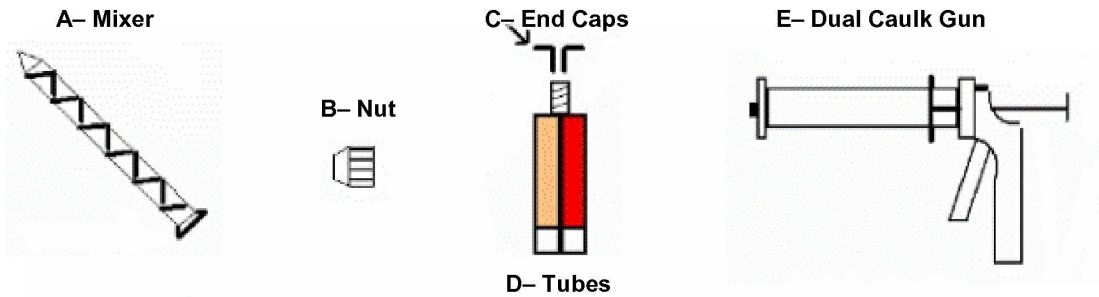
**Manufactured in the  
United States of America  
Distributed by:**



**Sealing Systems, Inc.**

9350 County Road 19 ♦ Loretto, MN 55357 ♦ 800-478-2054 ♦ Fax 763-478-8868 ♦ [www.ssisealingsystems.com](http://www.ssisealingsystems.com)

# AQUA SEAL Instructions for Use

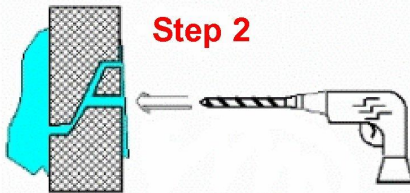


## Step 1



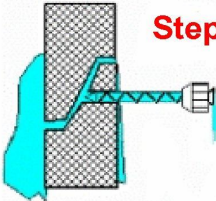
Slide B (Nut) over A (mixer- thread end first).

## Step 2



Drill 5/8" diameter hole to intersect leak path.

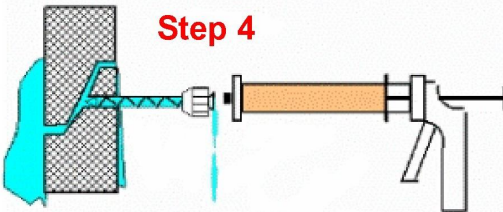
## Step 3



Place mixer into hole.

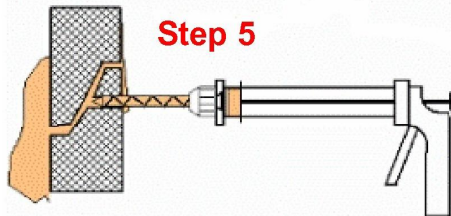
Prepare gun by pulling back plungers on E (dual caulk gun), insert D (tubes), while holding vertical, remove C (end caps) from threaded end of tubes.

## Step 4



Quickly align threads on D (tubes) with B (nut) and tighten to secure.

## Step 5



Pump gun vigorously to expel grout to refusal or seal. If there is a high velocity leak or if the grout is washing out, attach enclosed balloon onto end of mixer with tape (customer supplied) and insert mixer into hole and pump gun to expel the grout to refusal or seal.

**Tubes (D) must be 70° F or warmer. Place in hot water to heat**

Sealing Systems, Inc.

9350 County Road 19 • Loretto, MN 55357 • 763-478-2057 • 800-478-2054 • Fax 763-478-8868 • [www.ssisealingsystems.com](http://www.ssisealingsystems.com)



# AQUA SEAL Tips for Use

## Tools Needed

- Hammer drill
- 5/8" masonry bit
- Hammer
- Flat tip screwdriver
- Knife
- Putty knife
- Tape
- Rags, oakum, or burlap



<b>Problem</b>	<b>Solution</b>
Slow Reaction	Tubes are cold. Immerse in hot water for 5 minutes.
Grout washes out	Water looks 'milky'. Attach enclosed balloon onto end of mixer with tape (customer supplied) and insert mixer into hole and pump gun to expel the grout to refusal or seal. Make sure output (water) is plugged with burlap, rags, or oakum. Force any of the above into cracks with a screwdriver and hammer. Move injection hole further away from output.
Quick Reaction	Tubes are too warm. Cool by placing tubes in 70° F. water.
Leaking Around Mixer Tube in Hole	Wrap a rag or burlap around the static mixer, tape to the mixer and then tap the mixer into the hole.
Difficult to Disengage Trigger Release	Tap trigger release with a small hammer then slide plunger back.

## Clean Up

- Snap mixers (15 minutes after injection) with a sharp downward motion
- Use a putty knife to scrape excess material from concrete.
- Dispose of waste foam with ordinary wood or plastic waste.

Manufactured in the USA  
**Sealing Systems, Inc.**  
9350 County Road 19  
Loretto, MN 55357  
800-478-2054  
[www.ssisealingsystems.com](http://www.ssisealingsystems.com)



35mm Fold 140mm Flatwidth Fold 105mm 2.5mm Clea

# AQUA SEAL

# AQUA SEAL

## Dual Component Polyurethane Grout

Permanent Fix For Leaks



- Designed to plug high infiltration sources in precast or brick structures
- Stops leaks in excess of 50 G.P.M.
- Can be injected into flowing water

Manufactured in the USA  
 Sealing Systems, Inc.  
 9350 County Road 19  
 Loretto, MN 55357  
 800-478-2054  
 www.sssealingystems.com



**\*\* Material performs best at 80° - 70° F \*\***

**⚠ CAUTION: Read Cautions on back before using.**

### INSTRUCTIONS FOR USE

1. Identify components for use.  
Tubes - Mixers - Gun - Gloves - Goggles.
2. Drill 5/8" diameter hole to intersect leak path at 45 degrees.
3. Remove black connecting nut from top of tubes.
4. Slide nut over mixer.
5. Tap mixer element into hole (pointed end first) until snug.
6. Holding tubes vertically, remove the tube end caps from top of each tube.  
\* Keep tubes vertical, insert into gun. You are now ready to connect caulk tubes to mixer.
7. "QUICKLY" locate end of tubes and matching end of mixer and screw together with black connecting nut.
8. Pump gun into hole until refusal or foam shows.
9. Immediately press release tab at rear of gun.
10. If only "partial" tubes are used disconnect from mixer and insert tube end caps.

### CAUTION

**ALWAYS read M.S.D.S. before use.**  
**ALWAYS wear gloves and goggles.**

**AVOID Eye & Skin Contact.**

**If contact occurs, flush immediately with cold water for 15 minutes.**

**If irritation continues obtain medical attention immediately.**

**Use in well ventilated area.**

**NEVER dispense mixed liquids into closed container.**

**KEEP OUT OF REACH OF CHILDREN.**

**It is important to prevent the two components from mixing until ready.**

**ALWAYS WEAR GLOVES & GOGGLES**

### LOT#

Liquid Volume: 600ml (combined)  
 Manufactured in the USA  
 Sealing Systems, Inc.  
 800-478-2054  
 www.sssealingystems.com



221mm Print Height

289mm Print Height



RAM SALE NUMBER: 7111  
RAM ACCOUNTING DATE: 20080212

INTERNET TRANSMISSION DATE:  
2008/02/12

SERIAL NUMBER:  
77/107492

Description	Fee Code	Transaction	Total Fees Paid
POA	7005	2008/02/12	100