

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF BOSSELMAN INC.
and BOSSELMAN TRAVEL CENTERS,
INC.

NDEQ ID # 25505

Respondent

CASE NO. 3519

COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF
OPPORTUNITY FOR HEARING

I. INTRODUCTION

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507. The Complainant is the Director of the Nebraska Department of Environment and Energy (NDEE or Department). The Respondents are Bosselman Inc. and Bosselman Travel Centers, Inc.
2. Complainant has determined the Respondents are in violation of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §§ 81-1501 to 81-1532, and Title
3. The Respondents are the owners and/or operator of a wastewater lagoon system located north of Interstate 80 on Hwy 34, Grand Island, Hall County, Nebraska, that receives domestic wastewater from a nearby travel center and other adjacent buildings associated with the travel center. The wastewater system consists of three-cells, the largest cell (cell three) is synthetically lined.

II. JURISDICTION

4. NDEE is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1), of exercising exclusive general supervision, administration, and enforcement of NEPA and all rules and regulations promulgated under such acts.



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5. Pursuant to the Nebraska Environmental Quality Council's authority to adopt and promulgate rules and regulations for the purpose of administering the Clean Water Act, as expressed in Neb. Rev. Stat. §81-1504(4), the Council adopted rules and regulations codified as Neb. Adm. Code, Title 119 – Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System.

6. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules and regulations for the purpose of setting standards for the construction and operation of wastewater lagoons, as expressed in Neb. Rev. Stat. § 81-1505, the Council adopted and promulgated rules codified as Neb. Adm. Code, Title 123 – Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works.

7. This Order is issued under the authority vested in the Director of the Department by Neb. Rev. §§ 81-1504(25) and 81-1507(1).

III. COMPLAINT

8. On or about May 21, 2018, based on staff observations, the Department issued a Notice of Violation (NOV) alleging Respondents were operating their lagoon system with wastewater above allowable levels.

9. On or about November 25, 2019, based on staff observations, the Department issued a second NOV again alleging Respondents were operating their lagoon system with wastewater above allowable levels.

10. On February 11, 2020, Department personnel inspected Respondent's lagoon system and observed that the security gate was unsecured, that there were reeds growing inside the lagoon cells and that cell three was overflowing discharge as a result high wastewater levels. A written summary of the inspection findings was left with the travel center manager.

11. Neb. Rev. Stat. §81-1506(1) makes it unlawful to cause pollution or place any wastes in a location where they are likely to cause pollution of any waters or land of the state; or to discharge wastes into any waters or land of the state which reduce the quality of such waters or land below established standards. Any such action is declared to be a public nuisance.
12. Neb. Rev. Stat. §81-1506(2) makes it unlawful to discharge wastes into the waters or land of the state without obtaining a permit and to operate a wastewater lagoon in a manner that is not lawfully authorized.
13. Title 119, Ch. 2 prohibits the discharge of wastewater from a lagoon without a permit.
14. Title 123, Ch. 11 prohibits unauthorized discharges or bypass of wastewater and requires that wastewater lagoons be kept secure and operated and maintained in good working order, including the repair of any erosion and the maintenance of water levels within allowable freeboard levels.
15. Respondent has allowed an unauthorized discharge of wastewater to land and waters of the state in violation of Neb. Rev. Stat. §81-1506(1)(2); Title 119, Ch.2 and Title 123, Ch. 11.
16. Respondent has failed to maintain their wastewater lagoon in proper operating order in violation of Neb. Rev. Stat. §81-1506(2) and Title 123, Ch. 11.

V. COMPLIANCE ORDER

17. By July 12, 2020, Respondents shall lower the wastewater level in the lagoons to allowable freeboard levels.
18. By July 17, 2020, Respondents shall remove vegetation and repair the erosion in the lagoon cells and dikes.

19. By August 1, 2020, 2020, Respondents shall submit a report with documentation including but not limited to: photos, receipts, and repair records showing compliance with this order. Names, dates and locations shall be clearly identified.

20. The Respondents agree to respond in writing within seven (7) working days to all requests for information requested by the Department. Information to be submitted under this Order shall be sent to the Department's counsel by the Respondent or to:

Water Permits Division
Nebraska Department of Environmental Quality
P.O. Box 98922 (1200 N St., Suite 400)
Lincoln, NE 68509-8922
Telephone: 402-471-2186

VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

21. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondents file an answer and request, in writing, a hearing no later than thirty days after receipt of this Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

22. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Neb. Admin. Code, Title 115, Rules of Practice and Procedure. The answer and request for hearing may be filed by mail to: Jim Macy, Director, State of Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

VII. SETTLEMENT CONFERENCE

23. Whether or not Respondents request a hearing, an informal settlement conference may be requested by writing to Tom O'Connor, Attorney, Nebraska Department of Environment and

Energy, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

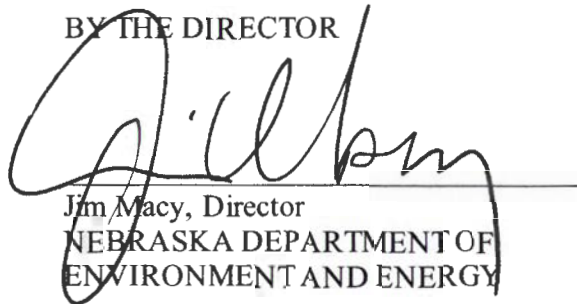
24. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

VII. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

25. The NDEE reserves the right to pursue enforcement in the proper court of law for injunctive relief or to seek civil or criminal penalties for any violations that are the subject of this Complaint, Compliance Order and Notice of Opportunity for Hearing. Nothing in this Complaint, Compliance Order and Notice of Opportunity for Hearing precludes the NDEE from pursuing such enforcement.

Dated this 13th day of May, 2020.

BY THE DIRECTOR


A handwritten signature in black ink, appearing to read "Jim Macy", is written over a horizontal line. The signature is stylized with a large, looping initial "J".

Jim Macy, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENT AND ENERGY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complain, Compliance Order and Notice of Opportunity for Hearing, was served by certified United States mail, postage prepaid, return receipt requested this 13th day of May, 2020, upon the Respondent listed below:

Brandi K. Bosselman
1607 S Locust St. Suite A
P.O. Box 4905
Grand Island, NE 68801


Lauren Triplett
Staff Assistant – Legal Division

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