

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF
MEADOW VIEW HOMEOWNERS
ASSOCIATION, INC.

FID # 72176

Respondent.

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Case No. 3538

CONSENT ORDER

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (Department) and Respondent, Meadow View Homeowners Association, Inc., voluntarily enter into this Consent Order, which establishes actions necessary for Respondent to come into compliance with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 et. seq.

2. The Department and Respondent agree that settlement of this matter is in the public interest to ensure compliance with state laws and rules and regulation.

II. JURISDICTION

3. 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.

4. At all times relevant, Respondent has owned and/or operated a wastewater treatment facility (WWTF) that receives domestic waste from the Meadow View Estates subdivision located in Lancaster County, Nebraska. The WWTF consists of a two-cell lagoon system owned by Respondent (northeast and northwest cell) and an additional single-cell lagoon (south cell) operated by Respondent.

III. PARTIES

5. The parties to this Consent Order are the Department and Respondent, and its employees, successors, and assigns. Respondent shall ensure that all contractors hired to perform work required by this Consent Order are informed of applicable requirements.



IV. COMPLAINT

- 6. Respondent is a “person” as defined in Neb. Rev. Stat. § 81-1502(10)**
- 7. Neb. Rev. Stat. § 81-1506(1)(a) makes it unlawful to cause pollution to land of the state.**
- 8. Neb. Rev. Stat. § 81-1508.02(b) makes it unlawful to violate any order of the director.**
- 9. Neb. Rev. Stat. § 81-1508.02(e) makes it unlawful to violate any provision or fail to perform any duty imposed by regulations adopted and promulgated pursuant to NEPA.**

10. Pursuant to the Nebraska Environmental Quality Council’s authority to adopt and promulgate rules and regulations as expressed in Neb. Rev. Stat. § 81-1505(8), the Council adopted rules and regulations codified as Neb. Admin. Code, Title 123, Rules and Regulations for The Design, Operation and Maintenance of Wastewater Works (Title 123).

11. Title 123, Ch. 11, 008.01 requires that cattails, reeds, and other emergent vegetation be removed as promptly as it appears.

12. Title 123, Ch. 11, 008.02 requires that at least two feet of water will be maintained at all times in active wastewater lagoons.

13. Title 123, Ch. 11, 008.04 requires that when inactive lagoon cells are placed into service, the liner’s permeability rate will be tested, and if necessary, restored to meet the seepage rate established by the Department.

14. Title 123, Ch. 11, 008.05 requires that damage to lagoon dikes and liners caused by muskrats or other rodents, erosion, tree roots, animal hooves, or any other source will be promptly repaired.

15. On February 4, 2021, the director of the department issued a Complaint, Compliance Order, and Notice of Opportunity for a Hearing. The order became final 30 days after issuance.

16. Respondent failed to comply with the terms of the Compliance Order. Respondent’s violation of the order of the director is an unlawful act under Neb. Rev. Stat. § 81-1508.02(b).

17. Between April 7, 2021, and February 4, 2022, department employees inspected the WWTF owned and/or operated by Respondent five times. During the inspections, department employees documented the following:

- a. the presence of cattails and other emergent vegetation in all three lagoons;
- b. unrepaired damage caused by burrowing animals in all three lagoons;
- c. potential damage to the liner in the northwest lagoon caused by heavy equipment;
- d. less than one foot of water and exposed liners in the northwest and northeast lagoons;
- e. less than two feet of water and an exposed liner in the south lagoon; and
- f. overflow from a sanitary sewer which leads to the northeast and northwest lagoons.

18. Respondent's failure to comply with the requirements of Title 1123 as described in Paragraph 17 is an unlawful act under Neb. Rev. Stat. § 81-1508.02(e).

19. Respondent's discharge of waste from a sanitary sewer to lands of the state is an unlawful act under Neb. Rev. Stat. § 81-1506(1)(a).

V. COMPLIANCE ORDER

20. Respondent agrees to the following Compliance Order and Schedule.

- a. By July 1, 2022, remove emergent vegetation and cattails and repair any damage caused by burrowing animals;
- b. By July 1, 2022, hire a certified wastewater operator;
- c. By August 1, 2022, submit permeability testing results for all three lagoons;
 - i. Respondent agrees to contact NDEE at least 72 hours prior to performing tests and allow NDEE to observe testing;
 - ii. Respondent may omit results for the northeast lagoon if the cell remains inactive;
- d. By September 1, 2022, submit a complete application for a construction permit, in accordance with Title 123, for any construction or modification necessary to bring the WWTF into compliance; and
- e. By May 1, 2023, complete construction or modifications in accordance with the Department issued construction permit.

21. Respondent agrees to respond in writing within seven (7) working days to all requests for information as requested by the Department to the following address or email:

Reuel S Anderson
Supervisor – NPDES Compliance Section
Inspection and Compliance Division
Nebraska Department of Environment and Energy
P.O. Box 98922
Lincoln, Nebraska 68509-8922

or copies may be sent as an attachment via email to:
reuel.anderson@nebraska.gov

VI. RESERVATION OF RIGHTS AND PENALTY PROVISIONS

22. The Department reserves the right to require Respondent to complete additional work or take additional actions as necessary to achieve compliance with all applicable laws and regulations. Further, the Department 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 Consent Order. Nothing in this Consent Order precludes the Department from pursuing such enforcement.

23. Failure to obey this order may result in civil penalties as set out in Neb. Rev. Stat. § 81-1508.02.

VII. NEGATION OF AGENCY RELATIONSHIP

24. Nothing contained in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between the Department and Respondent

VIII. AMENDMENTS

25. This Consent Order may be modified and amended in writing by mutual agreement of the Department and the Respondent.

IX. EFFECTIVE DATE

26. This Consent Order shall become effective on the date signed below by the Director of the Department or his designee.

X. SEVERABILITY

27. If any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of

such provisions to other party or circumstances and the remainder of the Consent Order shall remain in force and shall not be affected thereby.

XI. SIGNATURES

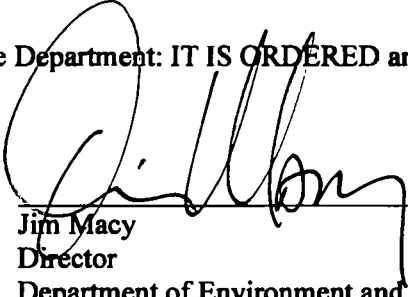
For the Respondents: The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind Respondent.

By: William C. Arneson

Title: President

Date: Aug 12, 2022

For the Department: IT IS ORDERED and agreed this 12th day of August, 2022.

By: 
Jim Macy
Director
Department of Environment and Energy