

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF THE VILLAGE OF  
VERDIGRE, NEBRASKA

Case No. 3472

FID # 57857  
Respondent

CONSENT ORDER

**I. INTRODUCTION**

1. This Consent Order is entered into pursuant to Neb. Rev. Stat. § 81-1507(1) of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 *et. seq.* (Reissue 2014; Cum. Supp. 2018) by James Macy, the Director of the Nebraska Department of Environment and Energy (NDEE or Department) and the Village of Verdigre, Nebraska.

2. On or about January 4, 2019, the Department issued a Complaint, Compliance Order, and Notice of Opportunity for Hearing and schedule requiring Respondent to submit an application for a National Pollutant Discharge Elimination System (NPDES) and submit plans describing how the Respondent will identify and mitigate source(s) of excess inflow and infiltration to the Respondent's sewer system.

3. This Consent Order replaces and updates the schedule of corrective actions necessary to achieve and maintain compliance with NEPA and all rules and regulations promulgated under such Act.

**II. JURISDICTION**

4. The Department is the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. § 81-1504 (1) to administer and enforce NEPA and all rules, regulations and orders created thereunder.



5. At all times material herein, Respondent has owned and operated a Wastewater Treatment Facility (WWTF) for the collection and treatment of municipal wastewater consisting of a sewer system and a three-cell wastewater treatment lagoon. The WWTF is located west of the Village of Verdigre, in the NE1/4 of the SE1/4, Section 6, Township 30N, Range 6W Knox County, Nebraska.

6. Pursuant to Neb. Rev. Stat. § 81-1504 and § 81-1505, the Nebraska Environmental Quality Council adopted rules and standards codified as Neb. Admin. Code Title 119 - *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System*.

7. Respondent agrees not to contest the Department's jurisdiction to enforce this Consent Order in any subsequent enforcement proceedings, either administrative or judicial. The Respondent further agrees, without making any admissions to liability, to undertake all corrective actions required by and agreed to in this Consent Order.

### **III. COMPLAINT**

8. Neb. Rev. Stat. § 81-1502(20) defines water pollution to include the manmade or man-induced alteration of the chemical, physical, biological integrity of water.

9. Neb. Rev. Stat. §81-1506(1) makes it unlawful to cause pollution of any waters or land of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution or to discharge or emit any wastes into any waters or land of the state which reduce the quality of such waters or land below the standards established by the council.

10. Neb. Rev. Stat. § 81-1506(2) makes it unlawful to discharge any pollutant into the waters of the state without first obtaining a permit as required by the National Pollutant Discharge Elimination System (NPDES) created by the Clean Water Act, as amended 33 U.S.C. 1251 et

seq. and by rules and regulations adopted and promulgated pursuant to Neb. Rev. Stat. § 81-1505.

11. Title 119, Ch. 1, 087 defines pollutant to include sewage, which is the primary constituent of Respondent's municipal wastewater.

12. Title 119, Ch. 2, 001 prohibits the discharge of any pollutant into any waters of the state from a point source without first having obtained a permit from the Department for such discharge. Respondent does not have a permit authorizing discharge to waters of the state.

13. On or about September 20, 2018, a Department employee conducted a site investigation of Respondent's WWTF and observed a hose running from the Respondent's wastewater treatment lagoon to Verdigre Creek. The Respondent's consulting engineer was contacted by Department staff via phone and confirmed that wastewater had been discharged via a hose from Respondent's lagoon to Verdigre Creek.

14. On or about October 1, 2018, as a result of the investigation, the Department issued Respondent a Notice of Violation for discharging from the WWTF without a NPDES permit or authorization and requesting that Respondent provide a written explanation for the discharge.

15. On or about November 1, 2018, the Department received Respondent's response, which in part stated that the discharge had lasted for 23 days; that the discharge was the result of high water levels in the lagoons; that land application was not practical and that the village was planning on installing a new land application system.

#### **IV.COMPLIANCE ORDER**

16. Respondent agrees to submit the following by the dates specified:

- a. By August 1, 2019, Respondent agrees to submit an application for a National Pollutant Discharge Elimination System (NPDES) Permit for Department review and

approval that describes how the Respondent will implement land application in accordance with Title 119 requirements.

- b. By January 1, 2020, Respondent agrees to submit for Department review and approval a plan describing how the source(s) of excess inflow and infiltration to the Respondent's sewer system will be identified.
- c. By March 1, 2020, Respondent agrees to submit for Department review and approval a plan describing the corrective action Respondent will take to eliminate, reduce and mitigate excess infiltration and inflow to the sewer system.

17. 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:

Ms. Shelley Schneider, P.E.  
Water Division administrator  
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:  
shelley.schneider@nebraska.gov

## **V. INJUNCTIVE RELIEF AND PENALTY PROVISIONS**

18. 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 Consent Order. Nothing in this Consent Order precludes the Department from pursuing such enforcement.

19. Failure to obey this order may result in fines up to \$10,000 per violation per day, as set out in Neb. Rev. Stat. § 81-1508.02.

## VI. AMENDMENTS

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

## VII. EFFECTIVE DATE

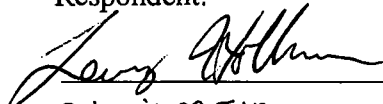
21. This Consent Order shall become effective on the date signed below by the Director of the Department or his designee.

## VIII. SEVERABILITY

22. 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.

## IX. SIGNATURES

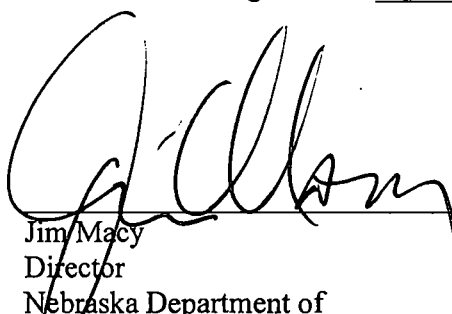
Respondent:

  
Chairperson  
Village of Verdgie Trustees

Date: 7-30-2019

For the Department: IT IS SO ORDERED and agreed this 6<sup>th</sup> day of

August, 2019.

  
Jim Macy  
Director  
Nebraska Department of  
Environment and Energy