

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF:

) Case No. 3318  
)  
)

SKAG-WAY DISCOUNT  
DEPT. STORES, INC.  
1607 South Locust Street  
Grand Island, Nebraska  
UG#012144-NM-1005  
IIS#79603

) COMPLAINT, ORDER  
) AND NOTICE OF OPPORTUNITY  
) FOR HEARING  
)  
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Respondents )

PRELIMINARY STATEMENT

This Complaint, Order and Notice of Opportunity for Hearing is issued pursuant to *Neb. Rev. Stat. §81-1507* (Reissue 2014) of the Nebraska Environmental Protection Act, *Neb. Rev. Stat. §81-1501 et. seq.* and *Neb. Rev. Stat. §81-15,124* of the Petroleum Products and Hazardous Substances Storage and Handling Act, *Neb. Rev. Stat. §81-15,117 et. seq.* (Reissue 2014). The Complainant is the Director, State of Nebraska Department of Environmental Quality (hereinafter "NDEQ" or "Department"). The Respondent is Skag-Way Discount Dept. Stores, Inc., Grand Island, Nebraska.

COMPLAINT

1. For the time period of 2001 through 2015, Respondent Skag-Way Discount Dept. Stores, Inc. owned and operated a business commonly referred to as Skagway, 1607 South Locust Street, Grand Island, Nebraska (the "Site"). At the Site, as part of the business, Respondent sold gasoline and fuel oils from underground petroleum storage tanks. Respondent owned and operated "tank(s)" as defined by *Neb. Rev. Stat. §81-15,119(10)* containing "regulated substances" as defined by *Neb. Rev. Stat. §81-15,119(6)* at the Site.



2. On or about December 2013, a limited subsurface assessment was conducted and petroleum contamination of ground water was discovered. A Tier 1 Site Investigation was conducted in February of 2014 and four monitoring wells were installed, with free product found in monitoring well No.1. More monitoring wells were drilled in February and April of 2014 with free product being found in additional wells. When the tank was pulled in June 2015 evidence of petroleum contamination was visible in the tank area.

3. Respondent was the owner or operator of the system while it was in operation as set out in *Neb. Rev. Stat. § 81-15,119* and the Director finds that the Respondent is a responsible person/party as set out in *Neb. Rev. Stat. § 66-1514*, Title 118, Chapter 1 and Title 126, Chapter 1, Section 038.

#### ORDER

4. IT IS HEREBY ORDERED and determined that, Respondent, Skag-Way Discount Dept. Stores, Inc., is a responsible person/party as set out in *Neb. Rev. Stat. § 66-1514*; Title 118, Chapter 1, Section 027; and Title 126, Chapter 1, Section 038. As a responsible person/party, Respondent must complete any remedial action related to this contamination that is required by Petroleum Products and Hazardous Substances Storage and Handling Act, *Neb. Rev. Stat. §81-15,117 et. seq.* (Reissue 2014) and Title 118, Appendix B.

#### NOTICE OF OPPORTUNITY TO REQUEST A HEARING

5. This Order shall become final, pursuant to *Neb. Rev. Stat. §81-1507(1)*, unless Respondents files an answer and requests, 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.

6. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Neb. Admin. Code, Rules of Practice and Procedure, Chapter 7. The answer and request for hearing may be filed by mail to: Jim Macy, Director, State of Nebraska Department of Environmental Quality, 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.

#### SETTLEMENT CONFERENCE

7. Whether or not Respondent requests a hearing, an informal settlement conference may be requested by writing to Steve Moeller, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

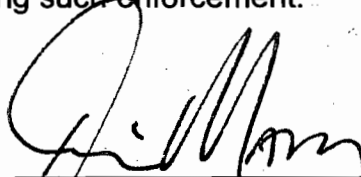
8. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

#### INJUNCTIVE RELIEF AND PENALTY PROVISIONS

9. The NDEQ 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 NDEQ from pursuing such enforcement.

7.14.15

Date

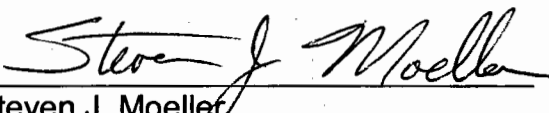


Jim Macy, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, with attachments, was served by certified United States mail, postage prepaid, return receipt requested this 16<sup>th</sup> day of July 2015 upon the Respondent listed below:

William C. Martin, Registered Agent, 620 West State Street, Grand Island, NE 68801.

  
Steven J. Moeller  
Staff Attorney