

**BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF	)	CASE NO. 3062
<b>Don Huwaldt</b>	)	
Osmond, Nebraska	)	CONSENT ORDER
Unpermitted Truck Wash	)	
FID # 65098,	)	
Respondent.	)	

COME NOW the parties, Petitioner, the Nebraska Department of Environmental Quality ("NDEQ" or "Department"), proceeding on its Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") filed herein and appears through its counsel, Steven J. Moeller; and the Respondent, Don Huwaldt ("Respondent"), appears through his counsel, James Walz. Each party, having consented to the making and entering of this Consent Order to resolve the requested contested case without trial, agrees to the following:

1. The Director has jurisdiction of the parties and the subject matter of this action. The Complaint filed herein constitute a justiciable cause of action against the Respondent.

2. The parties agree that settlement is in the public interest and that entry of this Consent Order is the most appropriate means of resolving their dispute. The parties desire to conclude this case without trial or adjudication of any issues of fact or law concerning the Complaint.

3. The Respondent agrees to comply with this Consent Order and agrees not to contest or challenge the allegations made herein for the purposes of enforcement of this settlement. The Department reserves the right to pursue any administrative, civil or criminal actions which are not in conflict with the provisions of this Consent Order.



4. Therefore the parties agree to the entry of this Consent Order by the Director to resolve the contested case requested in response to the Complaint, Compliance Order and Notice of Hearing.

#### FACTUAL BASIS

5. The Respondent owns or operates a truck wash facility located about 1 miles east of Osmond, Pierce County, Nebraska, on Highway 20.

6. The Department alleges that on or about February 12, 2010 Respondent was operating a wastewater system without obtaining the necessary permit from the Department and was land applying wastewater without permit or approval to do so by the Department.

#### CONCLUSIONS OF LAW, DETERMINATIONS, AND ACTIONS

7. The Respondent is a "person" as defined in Neb. Rev. Stat. § 81-1502(10).

8. The Respondent does not admit the allegations in the Complaint but desires to enter into this consent order to resolve the matter.

9. This Consent Order shall have the force and effect of a final order of the Director of the NDEQ issued pursuant to the Nebraska Environmental Protection Act (NEPA).

10. The Parties agree as follows:

- a. Respondent shall immediately take appropriate measures to prevent runoff from the facility and to properly land apply all waste so that it does not run off into waters of the State.
- b. The Respondent shall file an application for construction of a truck wash and for land application of waste with the Department by July 1, 2011.
- c. If the Department issues a permit by August 1, 2011, Respondent shall complete construction by November 1, 2011.

- d. If the Department issues a permit after August 1, 2011, the Respondent shall complete construction by 120 days from the date when the permit was issued.
- e. If Respondent has not completed construction of an approved wastewater facility by February 1, 2012, then Respondent shall immediately close and not operate the truck wash until construction is completed

11. The Parties further agree that the contested case shall be dismissed and the undersigned consent without further notice, to the form and entry of the foregoing Consent Order.

NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY,  
Petitioner

By: Steve J. Moeller  
Steven J. Moeller, #16003  
Staff Attorney  
Department of Environmental Quality  
Suite 400, The Atrium  
1200 "N" Street  
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Lincoln, NE 68509-8922  
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Don Huwaldt,  
Respondent:

By: Don Huwaldt  
Don Huwaldt

By: James Walz  
James Walz, #22497  
Attorney at Law  
Walz Law Offices, PC, LLO  
209 South 19<sup>th</sup> Street, Suite 525  
Omaha, NE 68102  
Telephone No.: (402) 505-4055  
Facsimile No.: (402) 932-6900  
E-mail: james@walzlawpc.com

ORDER

The Director approves the Consent Order and IT IS SO ORDERED.

DATED this 24<sup>th</sup> day of June, 2011.

A handwritten signature in black ink, appearing to read "M. Linder", written over a horizontal line.

Michael J. Linder, Director, Nebraska  
Department of Environmental Quality

AFFIDAVIT

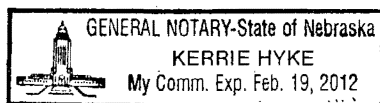
STATE OF NEBRASKA | SS  
COUNTY OF LANCASTER

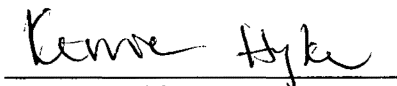
The undersigned oath deposes and says that on the 27<sup>th</sup> day of June 2011, he caused an exact copy of the attached Consent Order, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

James Walz  
Walz Law Offices, PC, LLO  
209 South 19<sup>th</sup> Street, Suite 525  
Omaha, Nebraska 68102

  
Steven J. Moeller, affiant

Subscribed and sworn to before me, a Notary Public, on the 27<sup>th</sup> day of June, 2011.



  
Notary Public