

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF)	Case NO. 3002
THE VILLAGE OF AMHERST)	
BUFFALO COUNTY, NE)	CONSENT ORDER
FID #057881)	
)	

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 filed herein and appearing through its counsel, Lydia Fiedler, and the Respondent, The Village of Amherst, appearing through its counsel, Jack W. Besse. Each party having consented to the making and entering of this Consent Order without trial, the Director finds that the Consent Order should be and hereby is entered.

1. The Director has jurisdiction over the parties and the subject matter of this action. The Complaint, Compliance Order, and Notice of Opportunity for Hearing filed herein constitutes 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.

3. The parties desire to conclude this case without trial or adjudication of any issues of fact or law concerning the Complaint, Compliance Order, and Notice of Opportunity for Hearing, without this Consent Order constituting an admission by the Respondent with respect to such issues contained in the Complaint, Compliance Order, and Notice of Opportunity for Hearing.

4. The Respondent agrees to the form and entry of this Consent Order for the purposes of settlement only. The Department reserves the right to pursue any other action including additional enforcement in the proper court for injunctive relief and

penalties, and/or an administrative order based on violations of the Act. The Department further reserves the right to impose additional obligations to abate or eliminate the discharge by further order or action by the Director.

5. Therefore, and only for the purposes of this Consent Order, the parties agree to the entry of this Consent Order by the Director to resolve the contested case asked for on the Complaint, Compliance Order, and Notice of Opportunity for Hearing.

6. IT IS THEREFORE AGREED TO AS FOLLOWS:

- a. By June 1, 2011, Respondent shall submit to NDEQ a wastewater treatment facility plan that complies with all relevant statutes and regulations.
- b. By June 1, 2012, Respondent shall submit to NDEQ construction plans, drawings, specifications, and all necessary permit applications, in order to make all necessary modifications to the wastewater system so that operation will comply with permit limits, prevent sanitary sewer overflow, and comport with all relevant laws and regulations.
- c. By October 1, 2013, Respondent shall complete construction of the necessary modifications in accordance with the plans and specification submitted to NDEQ. Once construction is complete, Respondent shall operate its wastewater treatment facility in accordance with all relevant statutes and NDEQ rules and regulations.

7. 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.

Village of Amherst,
By its Attorney:

/s/ Jack W. Besse

Jack W. Besse, #19005
Knapp, Fangmeyer, Aschmege, Besse &
Marsh, P.C.,
1323 Central Avenue, P.O. Box 10
Kearney, NE 68848-0010
(308) 236-6441

Nebraska Department of Environmental
Quality, By:

/s/ Lydia Fiedler

Lydia Fiedler, #24144
Nebraska Dept. of Environmental Quality
1200 "N" Street, Suite 400
P.O. Box 98922
Lincoln, NE 68509
(402) 471-3173

BY THE NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY:

August 18, 2010

Date

/s/ Michael J. Linder

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