

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF
MARIA CISNEROS

Case No. 3511

FID #104222

Respondent.

COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF
OPPORTUNITY FOR HEARING

I. INTRODUCTION

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507. The Complainant is the Director of the Nebraska Department of Environment and Energy (NDEE or Department).

2. The Respondent is Maria Cisneros, whose current address is 1658 W. 13th Street, Crete, Saline County, NE. The Respondent owns and operates the onsite wastewater (septic) system which serves the residence at that address.

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 the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §§ 81-1501 to 81-1532 and all rules and regulations promulgated thereunder.

4. Pursuant to Neb. Rev. Stat. § 81-1505(1) and (8), the Nebraska Environmental Quality Council adopted a rule and standard codified as Neb. Admin. Code Title 124 - *Rules and Regulations for the Design, Operation and Maintenance of Onsite Wastewater Treatment Systems* (Title 124).

III. COMPLAINT

5. The Complaint below establishes the violations, and the Compliance Order establishes a schedule for corrective actions to be taken by the Respondent.



6. On February 8, 2018, NDEE received a complaint from the City of Crete that Respondent's septic system had been modified but was not registered as required by Title 124.

7. Between February 26, 2018 and December 13, 2018, NDEE followed up this complaint by sending three certified letters requesting that Respondent register the septic system.

8. On November 1, 2019, NDEE personnel conducted a site inspection of Respondent's septic system and observed that the septic system had recently discharged to the ground surface and that the system was failing. Based upon the site visit, the Department concluded that because of the size of the residence, the lot size and location of neighboring wells and septic systems, the residence will require the installation of a permitted system.

9. On November 5, 2019, NDEE sent a certified letter requesting that Respondent have a new system designed by an engineer installed.

10. In response to the site visit, the Respondent's daughter called NDEE and said that they had the system inspected and that a new system would be too expensive.

11. Neb. Rev. Stat. § 81-1506 makes it unlawful to cause land or water pollution or to cause to be placed any wastes in a location where they are likely to cause land or water pollution or to operate any disposal system without obtaining the necessary permits from the Department.

12. Title 124, Ch. 2, 007.03 prohibits the discharge of domestic wastewater from a septic system to the land surface without Department approval.

13. Title 124 Ch. 3.008.04 prohibits the operation of a domestic septic system if the system has failed, endangers public health or results in a prohibited discharge.

14. Title 124, Ch. 3.003 requires a permit application, signed by a professional engineer for all systems that do not meet the provisions for design and setback distances.

15. As of this date, NDEE has received no documentation that Respondent's septic system is in compliance with Title 124 requirements.

IV. COMPLIANCE ORDER

16. It is hereby ORDERED that Respondent shall:

- a. By July 1, 2020, submit a permit application for a system that complies with the requirements of Title 124 along with the \$450 application fee.
- b. By September 1, 2020 provide the Department with documentation confirming that the system has been constructed in compliance with Title 124. Any work performed on the septic system is to be performed by a certified professional authorized to engage in such activities.
- c. Respond in writing within seven (7) working days to all requests for information as requested by the Department.

17. Submissions to the Department under this Order shall refer to FID #104222 and shall be sent to:

Tom Buell
Onsite Wastewater Supervisor
Nebraska Department of Environment and Energy
P.O. Box 98922
Lincoln, NE 68509-8922

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

18. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondent files an answer and request, 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.

19. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Neb. Admin. Code, Title 115, Rules of Practice and Procedure. The answer and request for hearing may be filed by mail to:

Jim Macy, Director,
Nebraska Department of Environment and Energy
P.O. Box 98922
Lincoln, Nebraska 68509-892,

or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

V. SETTLEMENT CONFERENCE

20. Whether or not Respondent requests a hearing, an informal settlement conference may be requested by writing to Tom O'Connor, Attorney, Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

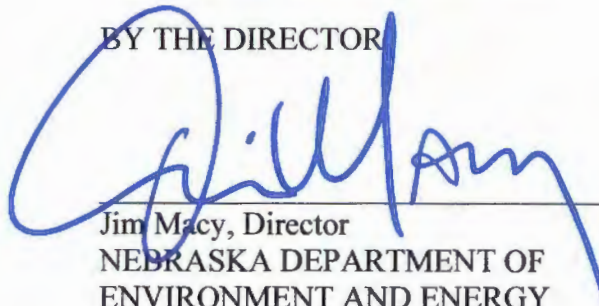
21. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

22. 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 Complaint, Compliance Order and Notice of Opportunity for Hearing. Nothing in this Complaint, Compliance Order and Notice of Opportunity for Hearing precludes the NDEE from pursuing such enforcement.

Dated this 17th day of April, 2020.

BY THE DIRECTOR




Jim Macy, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENT AND ENERGY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, was served by certified United States mail, postage prepaid, return receipt requested this 17th day of April, 2020, upon the Respondent listed below:

Maria Cisneros
1658 W. 13th Street
Crete, NE 68333



Lauren Triplett
Staff Assistant - Legal Division