

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF BOSSELMAN INC.
and BOSSELMAN TRAVEL CENTERS,
INC.

NDEQ ID # 25505

CASE NO. 3519

ORDER FOR COMPLIANCE
ON CONSENT

Respondent

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (Department), Bosselman Pump and Pantry, Inc. (FKA Bosselman, Inc.) and Bosselman Travel Centers, Inc. (collectively Respondent), voluntarily enter into this Order for Compliance on Consent (Consent Order). The Consent Order establishes a schedule of corrective actions necessary to achieve and maintain compliance with the Nebraska Environmental Protection Act (Act), Neb. Rev. Stat. §§ 81-1501 to 81-1532 and all rules and regulations promulgated under such Act.

2. The Respondent is the owner and operator of a wastewater lagoon system located north of Interstate 80 on Wood River Road west of Hwy 281, Grand Island, Hall County, Nebraska. The wastewater lagoon system receives domestic waste from a nearby travel center, motel and other adjacent buildings associated with the travel center.

3. The City of Grand Island owns a sanitary sewer main extension in the approximate vicinity of the travel center and the Respondent is in negotiations with the City of Grand Island to finalize a permanent connection of the travel center to the city's sanitary sewer system. Once this connection is completed, Respondent will no longer need the use of the wastewater lagoon system.

II. JURISDICTION

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4. The Department 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 Act, and all rules, regulations, and orders promulgated thereunder. This Consent Order is issued under the authority vested in the Director of the Department by Neb. Rev. §§ 81-1504(25) and 81-1507(1).

5. The Department issued a Notice of Violation (NOV) on November 25, 2019, alleging Respondent was operating their lagoon system above allowable freeboard.

6. The Department issued an Administrative Order on May 13, 2020 requiring that Respondent lower the water levels in the lagoon to allowable freeboard, remove vegetation and repair erosion in the lagoon cells and dikes. A Department inspection on October 5, 2020 indicated compliance with allowable freeboard and spraying to remove vegetation but lagoon cells 1 and 2 had not been repaired but were reinforced using sand bags.

7. The 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.

8. The Department and Respondent negotiated this Consent Order in good faith with the intent to remedy the underlying allegations made in the NOV and the Administrative Order.

III. PARTIES

9. This Consent Order is binding on the Respondent and their employees, agents, contractors, consultants, successors and assigns. Any change in ownership or corporate status of the Respondent, including but not limited to, any transfer of assets or property, shall not alter Respondent responsibilities and obligations under this Consent Order.

10. The Respondent shall ensure that any contractors and subcontractors implementing any provision of this Consent Order receive a copy of this Consent Order. Respondent shall be responsible for ensuring that their contractors and subcontractors perform work in accordance with this Consent Order.

IV. STATUTORY AND REGULATORY FRAMEWRK

11. 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 of any water or land of the state; 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 established standards.

12. Neb. Rev. Stat. § 81-1506(2)(d) makes it unlawful to operate a wastewater lagoon if the operation would cause an increase in the discharge of wastes in a manner that is not lawfully authorized.

13. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules and regulations for the purpose of setting standards for the construction and operation of wastewater lagoons, as expressed in Neb. Rev. Stat. § 81-1505, the Council adopted and promulgated rules codified as Neb. Adm. Code, *Title 123 – Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works*. Title 123, Ch. 11 requires that wastewater lagoons be operated and maintained in good working order, including maintenance of water levels within allowable freeboard.

V. SCHEDULE AND COMPLIANCE ORDER

The Respondent agrees to complete the following actions within the timeframe specified:

14. By December 31, 2020, Respondent agrees to submit for Department approval a construction permit application for the connection of the travel center lagoon-system to the City



of Grand Island sanitary sewer system and to complete construction of the approved connection within 10 months of the date of application approval.

15. Pending completion of the connection to the City of Grand Island sanitary sewer system and prior to abandoning the lagoon, Respondent agrees to maintain the wastewater lagoon in proper operating condition and freeboard levels in accordance with Title 123, Ch. 11 requirements and a 1.5 ft. freeboard level. Repair of all erosion damage to lagoon cells 1 and 2 shall be completed not later than March 31, 2021, unless the connection to the City is completed and the wastewater lagoon is no longer in use by that date.

16. Following connection to the City of Grand Island, Respondent agrees to abandon their wastewater lagoon within a reasonable period not to exceed one year in accordance with Title 123, Ch. 10 requirements.

17. The Respondent agrees to respond in writing within seven (7) working days to all requests for information by the Department. Information to be submitted under this Consent Order shall be sent to the Department's counsel by the Respondent to:

Water Permits Division
Nebraska Department of Environment and Energy
P.O. Box 98922 (1200 N St., Suite 400)
Lincoln, NE 68509-8922
Telephone: 402-471-2186

VI. SATISFACTION AND COMPLIANCE WITH OTHER LAWS

18. The Respondent shall perform and conduct all actions required by this Consent Order in accordance with all applicable local, state, and federal laws, regulations and permits.

VII. RESERVATION OF RIGHTS

19. Nothing in this Consent Order shall be construed to sanction any violation of local, State or Federal law or limit the power and authority of the Department to take or order any action

necessary to protect public health, welfare, or the environment or to enforce any provision of the Nebraska Environmental Protection Act and any rules, regulations, orders, or permits issued pursuant to the Act. The Department reserves the right to pursue any other remedies to which it is entitled for violations of this Consent Decree or the Nebraska Environmental Protection Act, including penalties or injunctive relief.

VII. NEGATION OF AGENCY RELATIONSHIP

20. Nothing contained in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between the Department and the Respondent.

IX. AMENDMENT

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

X. EFFECTIVE DATE

22. This Consent Order shall become effective on the date it is signed by the Director of the Department or his designee.

XI. SEVERABILITY

23. 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.

XII. SIGNATURES

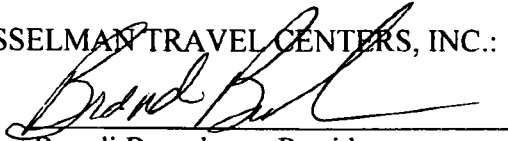
For Respondent: The undersigned certifies that they are fully authorized to enter into the terms and conditions of this Consent Order and to bind the Respondent.

Respondent,
BOSSelman PUMP & PANTRY, INC.



BOSSELMAN TRAVEL CENTERS, INC.:

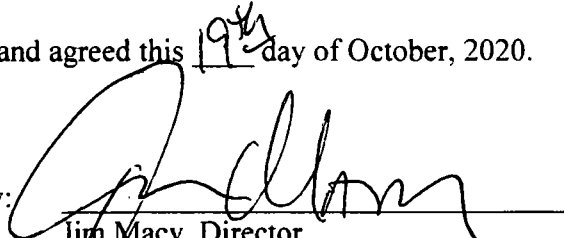
By:


Brandi Bosselman, President

Date: October 14, 2020

For the Department: IT IS ORDERED and agreed this 19th day of October, 2020.

By:


Jim Macy, Director
Department of Environment and Energy

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