

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF  
DIANA JONES

FID #106276

Respondent

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Case No. 3514

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 Diana Jones, who resides at 4943 Saint Paul Rd., Grand Island, Hall County, NE. The Respondent owns and operates an onsite wastewater (septic) system which serves the residence.

**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, 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 August 6, 2019, NDEE received a complaint that the septic system located at the residence of Diana Jones, was discharging into a roadside ditch.

7. On September 18, 2019, NDEE inspectors inspected the area identified in the August 6 complaint from St. Paul Rd., an adjacent public right-of-way. Inspectors observed an apparent discharge into the roadside ditch. The ditch contained standing water which was discolored, stagnant, and coated with algae. The likely source of the discharge was determined to be a failed septic system located at the residence of Ms. Jones.

8. 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.

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

10. 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.

11. On November 5, 2019, NDEE sent a Letter of Warning to Ms. Jones regarding the failed septic system and resulting wastewater discharges. A certified mail receipt confirms the letter was received by Ms. Jones on November 8, 2019. The letter requested that Ms. Jones:

- a. Immediately cease the discharge;
- b. Prevent access to the discharge area;
- c. Ensure that any discharged sewage is properly treated or disposed of; and

- d. By November 29, 2019, submit to NDEE written documentation that the onsite wastewater treatment system located at the residence complies with Title 124.

12. To date, Ms. Jones has failed to submit written documentation to NDEE that the system is in compliance with Title 124.

### **III. COMPLIANCE ORDER**

13. It is hereby ORDERED that Respondent shall:

- a. Within 45 days of receiving this Order, have the septic system servicing 4943 Saint Paul Rd., Grand Island, NE inspected by a certified inspector or professional engineer and submit a copy of the inspection report to the Department.
- b. By July 1, 2020, have the septic system repaired or replaced as necessary to ensure the system complies with the requirements of Title 124 and provide the Department with documentation confirming compliance. 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.

14. Submissions to the Department under this Order shall refer to FID #106276 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**

15. 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.

16. 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**

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

18. 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.

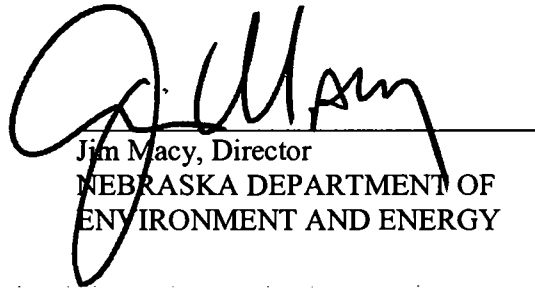
#### **VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS**

19. 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 11<sup>th</sup> day of March, 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 11<sup>th</sup> day of March, 2020, upon the Respondent listed below:

Diana Jones  
4943 Saint Paul Road  
Grand Island, NE 68801

  
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Lauren Triplett  
Staff Assistant - Legal Division

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