

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF)	CASE NO. 3008
DALE SEIDEL, d/b/a/)	
Pot Stop Truck Wash,)	CONSENT ORDER
Burwell, Nebraska, 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, Dale Seidel, doing business as Pot Stop Truck Wash (“Respondent”), appears through his counsel, Stephen D. Mossman. 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

20110002102

other 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 1.5 miles West of Burwell, Garfield County, Nebraska on Highway 91.

6. The Department alleges that on or about April 21, 2009, 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. If the Department issues a construction permit by May 1, 2011, the Respondent shall start construction by July 1, 2011.

- b. If the Department issues a permit by May 1, 2011, Respondent shall complete construction by October 1 2011.
- c. If the Department issues a permit after May 1, 2011, the Respondent shall complete construction by 120 days from the date when the permit was issued.
- d. If Respondent has not completed construction of an approved wastewater facility by November 1, 2011, then Respondent shall 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: /s/ Steven J. Moeller
Steven J. Moeller, #16003
Staff Attorney
Department of Environmental Quality
Suite 400, The Atrium
1200 "N" Street
P.O. Box 98922
Lincoln, NE 68509-8922
Telephone No.: (402) 471-0276

Dale Seidel, d/b/a Pot Stop Truck Wash
Respondents:

By: /s/ Dale Seidel
Dale Seidel

By: /s/ Stephen D. Mossman
Stephen D. Mossman, #19859
Attorney at Law
MATTSON, RICKETTS, DAVIES,
STEWART & CALKINS
134 South 13th Street, Suite 1200
Lincoln, NE 68508
Telephone No.: (402) 475-8433

Facsimile No.: (402) 475-0105
E-mail:sdm@mattsonricketts.com

ORDER

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

DATED this 17th day of March, 2011.

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