

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF

VILLAGE OF GREELEY
WASTEWATER TREATMENT
FACILITY
FID #57724

Respondent.

Case No. 3552

CONSENT ORDER

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (NDEE) and Village of Greeley, Nebraska (Respondent) voluntarily enter into this Consent Order. The Consent Order establishes a schedule for Respondent to comply with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 *et seq.* and Nebraska Administrative Code (NAC) Title 119, *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System* (Title 119).

II. JURISDICTION

2. NDEE is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504, of exercising exclusive general supervision, administration, and enforcement of NEPA and all rules and regulations and orders promulgated under such acts, including Title 119.

3. In signing this Consent Order, Respondent agrees to undertake all actions required by this Consent Order. Respondent agrees not to contest the jurisdictional allegations referenced herein in any action to enforce this Consent Order. Respondent waives its right to further hearing as provided in Neb. Rev. Stat. § 81-1507 and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901 *et seq.* for the violations alleged herein.



III. PARTIES

4. The parties to this Consent Order are NDEE and the Village of Greeley, Nebraska. This Consent Order is binding on NDEE, Respondent, and any successors and assigns.

IV. FINDINGS OF FACT

5. Respondent is the owner and operator of a wastewater treatment facility (WWTF) located at SE 1/4, SW 1/4, Section 12, Township 018 North, Range 011 West in Greeley County, Nebraska.

6. On October 1, 2017, NDEE issued Respondent National Pollution Discharge Elimination System (NPDES) Municipal Wastewater Treatment Permit No. NE0049212 (Permit), which, subject to its terms and conditions, authorizes Respondent to collect and treat domestic, commercial, and industrial wastewaters generated in the Village of Greeley and then to discharge the treated wastewaters to "Spring Creek" in Segment L01-30800 of the Loup River Basin.

7. Among the terms and conditions of its NPDES Permit, Respondent is required to submit quarterly Discharge Monitoring Reports (DMRs) which report wastewater sampling data to NDEE and are used by NDEE to evaluate the Village of Greeley's compliance with its NPDES Permit. The requirement to submit DMRs is in Standard Condition #14 – "Reporting Requirements" of Respondent's NPDES Permit.

8. Standard Condition #14.d.1. requires that quarterly DMRs are to be submitted by the 28th day of the month immediately following each three (3) month quarterly reporting period.

9. Respondent submitted late DMRs for the following reporting periods:

- a. For the 4th quarter of 2017 (Oct.-Dec.), which had a reporting deadline of January 28, 2018, Respondent submitted the quarterly DMR eight (8) days late on February 5, 2018;
- b. For the 2nd quarter of 2018 (April-June), which had a reporting deadline of July 28, 2018, Respondent submitted the quarterly DMR thirty-nine (39) days late on September 5, 2018;

- c. For the 4th quarter of 2018 (Oct.-Dec.), which had a reporting deadline of January 28, 2019, Respondent submitted the quarterly DMR nine (9) days late on February 6, 2019;
- d. For the 1st quarter of 2019 (Jan.-Mar.), which had a reporting deadline of April 28, 2019, Respondent submitted the quarterly DMR three (3) days late on May 1, 2019.

10. In addition to late DMRs, Respondent also did not report sample results in DMRs covering the months of September 2018, September 2019, and September 2020:

- a. For September 2018, Respondent did not report sample results for: ammonia (daily maximum and monthly average), flow (daily maximum and monthly average), selenium in sewage sludge (annual), and mercury in sewage sludge (annual);
- b. For September 2019, Respondent did not report sample results for: selenium in sewage sludge (annual), arsenic in sewage sludge (annual), nitrogen as NO₃ (annual), molybdenum in sewage sludge (annual), lead in sewage sludge (annual), nickel in sewage sludge (annual), mercury in sewage sludge (annual), chromium in sewage sludge (annual); copper in sewage sludge (annual), cadmium in sewage sludge (annual), ammonia in sewage sludge (annual); and
- c. For September 2020, Respondent did not report sample results for: ammonia (daily maximum and monthly average), flow (daily maximum and monthly average), temperature (daily maximum and monthly average), pH (daily minimum and maximum), total suspended solids (7-day average and monthly average), total nitrogen (daily maximum and monthly average), total phosphorous (daily maximum and monthly average), carbonaceous biochemical oxygen demand (7-day average and monthly average).

11. The unsampled or unreported sewage sludge generated at Respondent's WWTF between October 2017 and September 2019 has already been land applied by Respondent, its agents, or contractors. Any sewage sludge that has been land applied containing pollutants in excess of those permitted under Respondent's NPDES Permit presents a potential direct harm or risk of harm to the environment in the land application areas and surrounding watershed.

12. Among the terms and conditions of its NPDES Permit, Respondent is required to meet seasonal numeric limits for the discharge of ammonia to Spring Creek. These numeric limits are in Part I.B. of Respondent's NPDES Permit and contain limits for both the daily maximum and monthly average volumes of ammonia allowed to be discharged in Respondent's treated wastewater.

13. For the “Spring Season” from March 1 to May 31 as defined in Part I.B, the ammonia discharge limits to Spring Creek in Respondent’s NPDES Permit are 0.67 kg/day as a monthly average and 1.34 kg/day as a daily maximum.

14. During the Spring Seasons of 2019 and 2020, Respondent violated NPDES Permit condition Part I.B in **every month** of the reporting period for both the monthly average and daily maximum numeric permit limits for ammonia, with four (4) out of the six (6) months at least 167% over Respondent’s monthly average permit limit for the discharge of ammonia to Spring Creek.

15. For the “Summer Season” from June 1 to October 31 as defined in Part I.B, the ammonia discharge limits for Respondent’s NPDES Permit are 0.34 kg/day as a monthly average and 0.67 kg/day as a daily maximum.

16. During the Summer Seasons of 2017, 2019 and 2020, Respondent violated NPDES Permit condition Part I.B in the months of October 2017, June 2019, and June 2020 for both the monthly average and daily maximum numeric permit limits, with June 2019 419% over and June 2020 428% over Respondent’s monthly average permit limit for the discharge of ammonia to Spring Creek.

17. For the “Winter Season” from November 1 to February 28 as defined in Part I.B, the ammonia discharge limits for Respondent’s NPDES Permit are 0.62 kg/day as a monthly average and 1.52 kg/day as a daily maximum.

18. During the various Winter Season months between November 2017 and February 2020, Respondent violated NPDES Permit condition Part I.B in six (6) of twelve (12) months for the monthly average permit limit for the discharge of ammonia to Spring Creek.

19. In discussions with Respondent and review of its present operational capabilities in meeting NPDES Permit numeric discharge limits, NDEE and Respondent have determined that

Respondent's difficulty meeting permit limits is at least in part due to Respondent's outdated "activated sludge" WWTF that does not meet current design standards for the adequate, environmentally protective, and lawful treatment of the volume and strength of wastewater generated by the Village of Greeley.

20. In further discussions between NDEE and Respondent, it has been agreed that it is necessary for Respondent to replace its outdated activated sludge WWTF with a modern, upgraded "full retention lagoon" WWTF in order to meet NPDES permit limits, comply with NEPA & Title 119, and protect Spring Creek from water pollution as defined in Neb. Rev. Stat. § 81-1502(20).

21. NDEE acknowledges Respondent's initial efforts toward replacement of its outdated WWTF including preparation and submittal of a Preliminary Engineering Report (PER) to NDEE and the Water & Wastewater Advisory Committee (WWAC), and other such actions.

22. Neb. Rev. Stat. §81-1506(2)(c) and (d) state that it is unlawful for any person to increase in volume or strength any waste in excess of permitted discharges specified under any existing permit or operate any facility in a manner that would cause an increase in the discharge of wastes into waters of the state in a manner that is not lawfully authorized.

23. Neb. Rev. Stat. §81-1508.02(1)(b) states that it is unlawful for any person to violate a permit or license condition or limitation and any provision or duty imposed by rules and regulations.

24. Title 119, Chapter 14, Section 001.01 requires Respondent to comply with all conditions of NPDES Permit No. NE0040045 and states that permit noncompliance is grounds for enforcement action.

25. Respondent is a "person" as defined in Neb. Rev. Stat. §81-1502(10).

26. Respondent has violated Neb. Rev. Stat. §81-1506(2)(c) and (d), §81-1508.02(1)(b), and Title 119, Chapter 14, Section 001.01.

27. The NDEE Director is authorized under Neb. Rev. Stat. §81-1504(7), (25), and §81-1507(1) to require and enforce compliance schedules to prevent, control, or abate unlawful discharges to waters of the State.

V. COMPLIANCE ORDER

28. Respondent agrees to **immediately**:

- a.** Make all available and best efforts to acquire the real property necessary to site, design, construct, and operate a complete retention lagoon WWTF that is compliant with NEPA, Title 119, and its NPDES Permit;
- b.** Make all available and best efforts to maintain compliance with its NPDES Permit until a complete retention lagoon WWTF is constructed and operational;
- c.** Sample for all permit parameters in accordance with the terms and conditions of its NPDES Permit; and
- d.** Submit timely, complete DMRs to NDEE in accordance with the terms and conditions of its NPDES Permit.

29. By **August 1, 2021**, Respondent agrees to provide NDEE with a second revision of its written project timeline for the replacement of its WWTF, previously dated and submitted on December 31, 2020, including revised deadlines for the following project tasks:

- a.** Village confirms project and incorporates it in 2021 Budget Planning;
- b.** Secure Funding from WWAC;
- c.** Village secures land;
- d.** Execute engineering contracts for design and construction;
- e.** Landowner allowed to harvest crops;
- f.** Survey and design of proposed improvements;
- g.** Obtain permits and easements;
- h.** Obtain approval from funding agencies to bid project;
- i.** Advertise, bid, and award proposed project;
- j.** Initiate construction of proposed improvements;

- k. Substantial completion of proposed improvements; and
- l. Initiation of operation.

30. Upon submittal of a second revision of its written project timeline for the replacement of its WWTF, Respondent agrees to full implementation of the project timeline as a schedule for compliance with its NPDES Permit, Title 119, and NEPA by the dates as listed therein and subject to review and approval by NDEE.

31. Information to be submitted under this Consent Order shall refer to FID # 57724 and shall be sent to:

Reuel Anderson
Nebraska Department of Environment and Energy
P.O. Box 98922
Lincoln, NE 68509-8922

VI. SATISFACTION AND COMPLIANCE WITH OTHER LAWS

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

VII. RESERVATION OF RIGHTS

33. Nothing in this Consent Order shall be construed to limit the power and authority of the NDEE or State of Nebraska to take or order any action necessary to protect public health, welfare, or the environment or to enforce any provision of NEPA and any rules, regulations, orders, or permits issued pursuant to NEPA.

VIII. NEGATION OF AGENCY RELATIONSHIP

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

IX. AMENDMENT

35. This Consent Order may be modified and amended in writing by mutual agreement of NDEE and Respondent.

X. EFFECTIVE DATE

36. This Consent Order shall become effective on the date it is signed by the NDEE Director or his designee.

XI. SEVERABILITY

37. If any provision or authority of this Order or the application of this Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in force and shall not be affected thereby.

XII. SIGNATURES

38. For Respondent:

By: Robert Z
Title: Chairman
Date: 7-14-21

39. For NDEE:

IT IS SO ORDERED and agreed this 5th day of August, 2021.

Jim Macy

Jim Macy
Director

Nebraska Department of Environment and Energy

Task:	Timeline
Completion and Presentation of PER to Village	April 2020
Submittal of PER to WWAC and NDEE	May 2020
Secure Funding from WWAC Recommended Source	May 2020 – January 2022
Village Secures Land	July 2021 - December 2021
Execute Engineering Contracts for Design and Construction Observation	December 2021
Survey and Design of Proposed Improvements	March 2022 – July 2022
Obtain Permits and Easements	July 2022 – August 2022
Landowner Allowed to Harvest Crops	August 2022 – December 2022
Obtain Approval from Funding Agencies to Bid Project	December 2022
Advertise, Bid and Award Proposed Project	January – February 2023
Initiation of Construction of Proposed Improvements	April 2023
Substantial Completion of Proposed Improvements	October 2023
Initiation of Operation	November 2023