

## IN THE MATTER OF

Respondent.

## CONSENT ORDER

2. The NDEQ 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 NEPA. This Consent Order is issued under the authority vested in the Director of the NDEQ by Neb. Rev. Stat. § 81-1504.



3. The Respondent admits to and agrees not to contest the jurisdictional allegations referenced herein.

4. Respondent waives its right to receipt of a complaint and all notice and hearing requirements provided in Neb. Rev. Stat. §81-1507 for the violations alleged herein.

## **II. PARTIES**

5. The parties to this Consent Order are the Nebraska Department of Environmental Quality (NDEQ or Department) and the Village of Scotia (Respondent). This Consent Order is binding on the NDEQ and the Respondent and its successors and assigns.

## **III. FINDINGS OF FACT**

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

7. At all times material herein the Respondent has owned and operated a Wastewater Treatment Facility (WWTF) located in the SW1/4, NW1/4, Section 9, Township 17 N, Range 12 W, Greeley County, Nebraska.

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

9. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules for the issuance of operating permits for the purpose of limiting or prohibiting discharges from point sources, as expressed in Neb. Rev. Stat. § 81-1505, the Council adopted rules codified as Title 119, Nebraska Administrative Code, *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System (NPDES)* and Title 123 - *Rules And Regulations For The Design, Operation And Maintenance Of Wastewater Works*.

10. In accordance with Title 119, Respondent was issued NPDES Permit #NE0023973 (hereinafter "Permit"), effective July 1, 2012. The NDEQ issued an administrative extension on June 28, 2017 and said Permit has at all times material herein, been in full force and effect.

11. Title 119 Ch. 14 § 001 requires Respondent to comply with all conditions of the Permit including effluent standards and prohibitions and to properly operate and maintain their WWTF in order to achieve compliance with the Permit conditions.

12. Title 123, Ch. 3 requires any person who seeks to modify a WWTF to obtain a construction permit.

13. Title 123, Ch. 11 § 001 requires Respondent to operate and maintain their WWTF in proper working condition and to meet NPDES permit requirements.

14. On or about January 3, 2017 Respondent was issued a Notice of Violation for violation of Title 119 Ch. 14 § 001 including failure to comply with permit limits and failure to comply with reporting requirements.

#### **IV. STIPULATION**

15. The Respondent admits to the findings of fact and conclusions of law referenced in Section III, above.

16. The Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order. The Respondent agrees that it will not contest the basis or validity of this Consent Order in any proceedings by the NDEQ to enforce this Consent Order.

17. The Respondent shall be responsible for any noncompliance with this Consent Order by itself, its contractors, sub-contractors, and representatives.

18. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. § 81-1504 to enter into this Order requiring Respondent to modify their WWTF facility as necessary to prevent, control, or abate pollution as required by this Order.

#### **V. COMPLIANCE ORDER and SCHEDULE**

19. Respondent agrees to the following Compliance Order and Schedule:

- a. By December 31, 2018, Respondent shall submit plans and specifications to the Department in accordance with Title 123, Ch. 3, construction permit requirements for lagoon improvements and a land application system. The plans shall at minimum meet Title 123 design standards and include the improvements necessary to meet Title 119 requirements for land application of domestic effluent.
- b. By July 1, 2019, Respondent shall complete the collection system televising of the remaining untelevised areas of the system.

20. All plans and specifications and engineering reports submitted in accordance with this Order shall be signed and sealed by a Nebraska Professional Engineer (P.E.) and shall be subject to NDEQ review and approval.

21. Respondent shall respond in writing within thirty (30) working days to all requests for information or clarification by NDEQ.

22. Respondent shall ensure that any contractors, sub-contractors and representatives implementing any provision of this Consent Order receive a copy of this Consent Order.

23. All terms and references used in this Consent Order shall have the same meaning as any relevant permit. No other terms or conditions of any permit are affected by this Consent Order.

24. Information to be submitted under this Order shall be sent to:

Water Quality Division  
Nebraska Dept. of Environmental Quality  
PO Box 98922  
Lincoln, NE 68509-8922  
Telephone: 402-471-4210

#### **VI. COMPLIANCE WITH OTHER LAWS**

25. The 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**

26. Nothing in this Consent Order shall be construed to sanction any violation of state or Federal law or limit the power and authority of the NDEQ 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**

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

#### **IX. AMENDMENT**

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

#### **X. EFFECTIVE DATE**


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

#### **XI. SEVERABILITY**

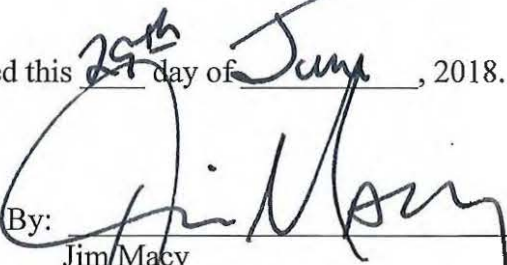
30. If any provision or authority of this Order or the application of this Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in force and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

## XII. SIGNATURES

For the Respondent: The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind the Respondent.

By:   
Title: Chairperson  
Date: May 01, 2018

For the NDEQ: IT IS ORDERED and agreed this 29<sup>th</sup> day of June, 2018.

By:   
Jim Macy  
Director  
Department of Environmental Quality