

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF
THE VILLAGE OF BRADY
Respondent.

Case No. 3160
AMENDED COMPLAINT, COMPLIANCE ORDER,
AND NOTICE OF OPPORTUNITY
FOR HEARING

COMPLAINT

1. A Complaint, Compliance Order, and Notice of Opportunity for Hearing was issued herein pursuant to Neb. Rev. Stat. §81-1507 of the Nebraska Environmental Act §81- 1501 et seq. (Reissue 2008) on July 11, 2012.

2. The allegations of the Complaint were not denied and not contested, and no request for contested case was received. The allegations of the July 11, 2012, Order are taken as established fact.

3. On August 3, 2012, the engineer employed by the Respondent proposed an alternate schedule of compliance measures. On August 15, 2012, the Village Board of Brady approved a resolution to request a revised schedule of compliance. The revised schedule was submitted to NDEQ on August 20, 2012, with the engineer's statement among others: "The final design is a function of the wastewater flows. Until the source of the wastewater can be determined (closed circuit TV) and the quantity of the wastewater (flow meter) can be determined, the project cannot be designed properly." The revised schedule provides for video collection to occur from the month of October 2012 through February 2013.

COMPLIANCE ORDER

4. IT IS THEREFORE ORDERED that on the 31st day following service of this Amended Order on the Respondent, and in the event of no contest to the Amended Order, paragraphs 7 through 10 of the July 11, 2012, Order in this matter are nullified and replaced in full by the following paragraphs 5 through 8 of this Order.

5. IT IS FURTHER ORDERED that the Respondent shall not introduce wastewater to cells 3 and 4 except upon express written permission of NDEQ.



6. IT IS FURTHER ORDERED that on or before June 1, 2013, the Respondent shall submit a written plan to NDEQ for correction of all deficiencies to the wastewater treatment facility and collection system identified in the Engineering Report submitted to NDEQ on December 20, 2011, as supplemented by collection system video information collected prior to June 1, 2013. The plan shall not fail to address restoration of any lagoon cells that will be used in the future and proper abandonment of any cells that are not intended for future use in the plan. Upon approval by NDEQ of any measures in the plan in the way of operation and maintenance not requiring a construction permit the Respondent shall immediately implement and continue such measures.

7. IT IS FURTHER ORDERED that on or before January 1, 2014, the Respondent shall submit plans and specifications, prepared by a professional engineer licensed to practice in Nebraska, for all modifications and construction requiring permits as specified in Title 123 to NDEQ for review and approval.

8. IT IS FURTHER ORDERED that on or before December 31, 2014, the Respondent shall complete construction of all wastewater improvements for which NDEQ has issued construction permits according to the terms of those permits.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING


9. Pursuant to Neb. Rev. Stat. § 81-1507 (Reissue 2008) the Respondent has the right to apply for a hearing to contest this Complaint and Compliance Order by making a request for such hearing to the Director no later than 30 days after service hereof. Nebraska Department of Environmental Quality, Rules of Practice and Procedure, Title 115, Chapter 7, sets forth the procedure of such hearings.

ADVISEMENT OF POSSIBLE PENALTIES

10. The NDEQ 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 NDEQ from

pursuing such enforcement. Failure to obey this order may result in civil penalties of up to \$10,000 per day as set out in Neb. Rev. Stat. §81-1508.02 (Reissue 2008).

Dated: September 27 2012

By: 

Michael J. Linder, Director
Nebraska Department of
Environmental Quality

AFFIDAVIT

STATE OF NEBRASKA
COUNTY OF LANCASTER

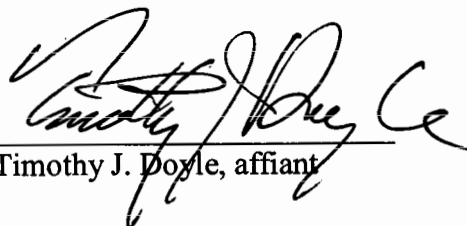
SS

The undersigned oath deposes and says that on the 1st day of October, 2012, he caused an exact copy of the attached Amended Compliance Order, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

Jeff Miller, Chairman
Village of Brady
PO Box 153
Brady, Nebraska 69123

and by United States mail, first class, postage prepaid on the following:

Reed Miller
Miller & Associates
Consulting Engineers, P.C.
1111 Central Avenue
Kearney, Nebraska 68847


Timothy J. Doyle, affiant

Subscribed and sworn to before me, a Notary Public, on the 1st day of October, 2012.




Notary Public