

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF THE CITY  
OF LONG PINE, NEBRASKA

FID #57757

Respondent.

)  
)  
)  
)  
)  
)  
)

Case No. 3551

CONSENT ORDER

**I. INTRODUCTION**

1. The Nebraska Department of Environment and Energy (NDEE) and the Respondent, City of Long Pine, Nebraska voluntarily enter into this Consent Order, which establishes actions necessary for Respondent to come into compliance with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 *et. seq.*

**II. JURISDICTION**

2. At all times material herein, Respondent has owned and operated a Wastewater Treatment Facility (WWTF) for the collection and treatment of municipal wastewater located in Brown County, Nebraska. Respondent discharges effluent to an undesignated tributary of Long Pine Creek; segment NI3-12400 of the Niobrara River Basin, which is a water of the state.

3. The Department is the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. § 81-1504(1) to administer and enforce the Nebraska Environmental Protection Act and all rules, regulations and orders created thereunder.

4. Pursuant to Neb. Rev. Stat. § 81-1505, the Nebraska Environmental Quality Council adopted rules and standards codified as Neb. Admin. Code Title 119 - *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System* (Title 119).

5. In accordance with Title 119, NDEE issued NPDES Permit No: NE0113344 (the "permit") to Respondent with an effective date of January 1, 2016. The permit contained effluent limits and monitoring requirements for two outfalls. Outfall 001 and 003 were permitted for the



discharge of effluent to the undesignated tributary of Long Pine Creek, subject to the terms and conditions of the permit.

6. Respondent agrees not to contest the Department's jurisdiction to enforce this Consent Order in any subsequent enforcement proceedings, either administrative or judicial. The Respondent further agrees to undertake all corrective actions required by and agreed to in this Consent Order.

### **III. COMPLAINT**

7. Respondent exceeded the permitted effluent limit for Biochemical Oxygen Demand (BOD) for the monitoring periods ending on 11/30/2018, 4/30/2019, 11/30/2019, 4/30/2020, 8/31/2020, 10/31/2020, 12/30/2020, and 4/30/2021.

8. Respondent exceeded the permitted effluent limit for Ammonia for the monitoring periods ending on 4/30/2019, 10/31/2019, 11/30/2019, 4/30/2020, 10/31/2020, 12/30/2020, and 4/30/2021.

9. Respondent exceeded the permitted effluent limit for Total Suspended Solids for the monitoring periods ending on 4/30/2019, 4/30/2020, and 8/31/2020.

10. On or about February 25, 2021, the Department mailed a Letter of Noncompliance to Respondent requesting that Respondent, among other things, submit a written description of the corrective action implemented to meet the effluent limitations contained in Respondent's permit.

11. On or about March 29, 2021, the Department received a letter from Respondent in response to the February 25 Letter of Noncompliance. Respondent indicated that the corrective actions that had been taken were unsuccessful.

12. Failure to comply with NPDES permit conditions, including discharge limitations is a violation of Title 119, Ch. 14, 001.01 and Neb. Rev. Stat. § 81-1506(2)(c).

### **III. COMPLIANCE SCHEDULE**

13. Respondent agrees to submit an updated Preliminary Engineering Report (PER) prepared and signed by a Nebraska Professional Engineer by July 1, 2022. The PER will include:

- a. An analysis, and the supporting data, showing the average daily, peak hour, and maximum daily wastewater flows to the WWTF.
  - i. Actual flow monitoring data will be collected over a period falling between March 1 and May 31 of 2022.
  - ii. Actual flow monitoring data will be gathered over a sufficient period to capture one or more wet weather events to analyze infiltration and inflow (I&I) in the sewer system;
- b. A timeline for WWTF system upgrades and repairs and other corrective actions such as land application; and
- c. If applicable, a demonstration that the rate of population decline will allow the existing WWTF to meet permit requirements as an alternative to physical upgrades.

14. Respondent agrees to respond in writing within seven (7) working days to all requests for information as requested by the Department to the following address or email:

Reuel S Anderson  
Supervisor – NPDES Compliance Section  
Inspection and Compliance Division  
Nebraska Department of Environment and Energy  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922

or copies may be sent as an attachment via email to:  
[reuel.anderson@nebraska.gov](mailto:reuel.anderson@nebraska.gov)

#### **IV. RESERVATION OF RIGHTS AND PENALTY PROVISIONS**

15. The Department reserves the right to require the Respondent to complete additional work or take additional actions as necessary to achieve compliance with all applicable laws and regulations. Further, the Department 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 Consent Order. Nothing in this Consent Order precludes the Department from pursuing such enforcement.

16. Failure to obey this order may result in civil penalties as set out in Neb. Rev. Stat. § 81-1508.02.

#### VI. AMENDMENTS

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

#### VII. EFFECTIVE DATE

18. This Consent Order shall become effective on the date signed below by the Director of the Department or his designee.

#### VIII. SEVERABILITY

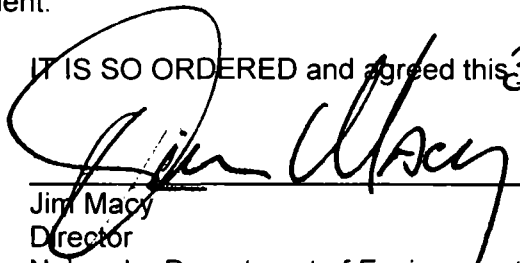
19. If any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other party or circumstances and the remainder of the Consent Order shall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

#### IX. SIGNATURES

For Respondents:

By: Ed Brown  
Title: Mayor, Long Pine, NE  
Date: September 22<sup>nd</sup>, 2021

For the Department:

IT IS SO ORDERED and agreed this 30<sup>th</sup> day of September, 2021.  
  
\_\_\_\_\_  
Jim Macy  
Director  
Nebraska Department of Environment and Energy