

**IN THE MATTER OF  
Raymond Wastewater  
Treatment Facility,**

FID # 57817

**Respondent.**

CASE NO. 3438

# EMERGENCY COMPLAINT AND ORDER

This Emergency Complaint and Order is issued by the Deputy Director – Water of the Department of Environmental Quality (hereinafter referred to as “Department”) pursuant to Neb. Rev. Stat. § 81-1507(4) of the Environmental Protection Act (Act), Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2014, Supp. 2015) to require immediate action to protect the public health and welfare. The Deputy Director is authorized to issue this Order in the absence of the Director pursuant to a delegation of authority. The Department is the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. § 81-1504(1) to exercise exclusive general supervision of the administration and enforcement of the Environmental Protection Act, and all rules and regulations and orders promulgated under the Act. The Respondent is the Village of Raymond (hereinafter “Raymond”), whose facility # 57817 is located in Raymond, Lancaster County, Nebraska.

The complaint below sets out the facts establishing the existence of an emergency, and the order specifies the immediate action that must be taken to abate the emergency. This Emergency Complaint and Order is effective immediately. The Respondent shall be afforded the opportunity for a hearing



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upon application in writing to the director of the Department, such hearing to take place as soon as possible but not later than ten days after a request is made.

## **I. COMPLAINT**

1. Respondent is Village of Raymond, Nebraska, which owns and operates facility # 57817, the Raymond Wastewater Treatment Facility (hereinafter "Facility"), 14350 W. Railroad Street, Raymond, NE 68428. The legal description is SW NE Section 06, Township N 11, Range E06, Lancaster County, Nebraska.

2. Two investigators from the Department conducted a site visit to the Facility on the morning of January 5, 2018. Upon their arrival at approximately 9:30 a.m. they found that the aeration tank and blowers were not operational. They observed that (a) the clarifier was completely frozen over, allowing untreated wastewater to discharge; (b) the sludge holding tank was completely full and frozen; (c) the UV disinfection was operational with the UV bulbs still in the raceway; and (d) there was a large amount of sludge in the UV chamber. The investigators also observed a strong septic smell in the UV chamber and aeration basin.

3. With the above equipment not operational or frozen over, wastewater was not being treated by the Facility; and untreated wastewater was being discharged directly out of the Facility onto the ground surface with the potential to reach waters of the state.

4. Neb. Rev. Stat. § 81-1506(1)(a) makes it "unlawful for any person to cause pollution of any air, waters, or land of the state or to place or cause to be

placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state.”

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

6. The Department has the power and duty to “require proper maintenance and operation of disposal systems” pursuant to Neb. Rev. Stat. § 81-1504(12).

7. Pursuant to the Nebraska Environmental Quality Council’s authority to adopt rules and regulations for the issuance of NPDES permits in Neb. Rev. Stat. §81-1505(11), the Council adopted and promulgated Neb. Admin. Code, Title 119, Rules and Regulations Pursuant to the Issuance of Permits under the National Pollutant Discharge Elimination System (NPDES).

8. Title 119, Chapter 2, § 002 requires “All persons discharging or proposing to discharge pollutants from a point source into any waters of the state are required to apply for and have a permit to discharge as required by 40 CFR 122.21(a). This includes, but is not limited to, such operations as: 002.01 Disposal of sewage sludge resulting from the operation of a treatment works that would result in any pollutant from such sewage sludge entering any waters of the state pursuant to Section 405 of the Clean Water Act”.

9. Pursuant to the Nebraska Environmental Quality Council’s authority to adopt rules and regulations for waste water treatment facilities in Neb. Rev. Stat. §81-1505(8), the Council adopted and promulgated Neb. Admin. Code, Title 123,

Rules and Regulations for the Design, Operation and Maintenance of  
Wastewater Works.

10. Title 123, Chapter 11, § 001 states: "Wastewater treatment facilities shall be maintained in proper operating condition in accordance with this chapter and shall be operated in a manner to meet all NPDES permit requirements and not result in a prohibited bypass or an unauthorized discharge."

11. The Deputy Director finds that the equipment failure at the Facility has placed the Respondent in violation of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 et. seq. (Reissue 2014, Cum. Supp. 2016); Title 119; Title 123; and the Facility's NPDES Permit # NE0046281.

12. The Deputy Director finds that the Respondent, by the actions cited above and by failing to operate their Facility under the terms of their permit, NPDES Permit # NE0046281, and in compliance with the NEPA, Title 119, and Title 123, has operated their facility in a manner that presents an emergency and imminent and substantial threat to human health and the environment, is likely to cause and may already have caused pollution to the air, waters, and land of the state in violation of state law, rules and regulations. The Deputy Director further finds that the equipment failures at the Facility must be immediately repaired to prevent injury and exposure to the public and the environment.

**II. COMPLIANCE ORDER**

**IT IS HEREBY ORDERED THAT:**

13. Respondent shall immediately repair, thaw, and take whatever action is necessary to insure that the Facility and its equipment is operating in

compliance with NEPA, Title 119, Title 123, and NPDES Permit # NE0046281.

14. In particular, Respondent shall immediately repair, thaw, and put into working order the following equipment at the Facility: aeration tank, blowers, clarifier, sludge holding tank, and UV chamber.

15. Respondent shall provide the Department with verification that the above remedial actions have been taken within two weeks from receipt of this Order.

16. If Respondents are not able to repair the equipment and bring the facility into compliance, Respondents are responsible for alternate disposal of untreated wastewater by pumping and trucking the untreated wastewater to a permitted publically owned wastewater treatment works or by alternate method approved in advance by the Department.

16. Upon receipt of this Order, the Respondent shall collect and analyze the effluent samples required in Part I and Part II of NPDES Permit # NE0046281 and submit the results of the analysis to the Department immediately upon receipt.

17. Respondent shall continue to collect and analyze the effluent samples required in Part I and Part II of NPDES Permit # NE0046281 and submit the results of the analysis to the Department immediately upon receipt on a weekly basis until the Respondent comes into compliance with their permit. Respondent shall also sample for *E. coli* to verify their disinfection system is operating correctly one week prior to disinfection season (May 1, 2018) and submit the results of the analysis to the Department immediately upon receipt.

18. Respondent shall obtain and submit the results of a Pre-Engineering Review (PER) within three months of receiving this Order. This Review shall also include an analysis of the equipment noted above to insure that it is in working order after being subjected to freezing. The Review shall be completed by an engineer (P.E.) licensed to practice in the State of Nebraska.

19. Any information or verification required by this order shall be sent to:

Reuel Anderson & Mark Pomajzl  
Wastewater, NDPES Permits and Compliance Unit  
Nebraska Department of Environmental Quality  
PO Box 98922  
1200 N Street, Suite 400  
Lincoln, NE 68509-8922  
402-471-2186

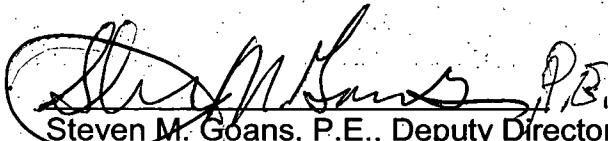
### **III. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

20. In accordance with Neb. Rev. Stat. §18-1507(4) this Emergency Complaint and Order shall become effective immediately. The Respondent is required to comply with the Emergency Order upon receipt.

21. The Respondent may request a hearing by submitting a written request to the Director. The request for hearing may be filed by mail to: Jim Macy, Director, State of Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska. Such hearing shall be scheduled as soon as possible but not later than ten days after the request is made. The Emergency Complaint and Order shall remain in effect pending any hearing and shall not relieve the Respondent from immediate compliance.

22. This Emergency Complaint and Order does not preclude the Department from pursuing additional enforcement by administrative order for injunctive relief and penalties based on violations of the Act. The Department further reserves the right to impose additional obligations to abate or eliminate the emergency or pollution caused by the Respondent.

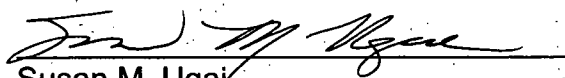
Dated this 5th day of January, 2018.

  
Steven M. Goans, P.E., Deputy Director - Water  
Nebraska Department of Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Emergency Order and Complaint, was served by certified United States mail, postage prepaid, return receipt requested this 8th day of January, 2018, upon the Respondent listed below at their mailing address:

Village of Raymond  
Raymond Wastewater Treatment Facility  
PO Box 248  
Raymond, NE 68428

  
Susan M. Ugal