

IN THE DISTRICT COURT OF SAUNDERS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
Plaintiff,)
v.)
RUDA SEPTIC, L.L.C. AND CHAD RUDA,)
Defendants.)

CASE NO. CI-06-65

CONSENT DECREE

COME NOW the parties, Plaintiff, the Department of Environmental Quality (hereinafter "NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon C. Bruning, Attorney General, and the Defendants Ruda Septic, L.L.C. and Chad Ruda, and each party having consented to the making and entering of this Consent Decree without trial, the Court finds that the Consent Decree should be and hereby is entered.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court has jurisdiction of the parties and the subject matter of this action pursuant to Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 1999; Cum. Supp, 2004), the Nebraska Environmental Protection Act, and all rules and regulations and orders promulgated thereunder.
2. The Complaint filed herein constitutes a justiciable cause of action against the Defendant.
3. In its Complaint, Plaintiff alleges that on or about May 30, 2004, the Defendants installed an absorption system for the George Muller Residence, located in Saunders County, that was 6-10 feet from the Village of Morse Bluff's pressure-main water line, which is in violation of Title 124, *Rules and Regulations for the Design,*

Operation And Maintenance of On-Site Wastewater Treatment Systems, Chapter 5, Section 001, which requires that absorption systems be set back 25 feet from pressure-main water lines. Defendants further failed to register the wastewater system with the Department of Environmental Quality within 45 days of being constructed as required by Neb. Rev. Stat. §81-15,248(2).

4. The parties agree that settlement of these matters is in the public interest and that entry of this Consent Decree is the most appropriate means of resolving their dispute. The parties desire to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by the Defendants with respect to such issues. The Defendants agree to the form and entry of this Consent Decree for the purposes of settlement only. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Order by the Court.

5. This Consent Decree shall be in full satisfaction of all claims alleged in the complaint filed herein and any claims arising out of the same transaction or occurrences asserted therein, provided that such claims were known to the State of Nebraska, or were reasonably ascertainable from information in the State's possession, as of the date of the filing of the consent decree.

6. IT IS THEREFORE ORDERED that the Defendants shall pay to the Clerk of the District Court of Saunders County a civil penalty in the amount of \$2,000.00 (two thousand dollars), and the costs of the action in the amount of seventy-nine dollars (\$79.00);

- A. \$1,000.00 (one thousand dollars) of said penalty is to be paid within thirty (30) days of approval of this Consent Decree by the District Court;
- B. The remaining \$1,000 (one thousand dollars) of said penalty will be due and owing on August 15, 2006. In the event that Defendants maintain compliance with the following obligations and provisions from the date of approval of this Consent Decree by the Court through July 31, 2006, this remaining \$1,000.00 (^{one thousand} ~~five~~ thousand dollars) of civil penalties will be waived:
- i. Defendants will comply with the Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.* and the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, Neb. Rev. Stat. §81-15,236 *et seq.*
 - ii. Defendants will comply with Title 124 of the Nebraska Administrative Code, *Rules and Regulations for the Design, Operation and Maintenance of On-Site Wastewater Systems.*
- C. To qualify for the waivers of civil penalties provided for in paragraph 6(B) above, Defendants shall notify the Nebraska Attorney General's Office on or before the due date of the civil penalties, establishing that they have maintained compliance as required. If Plaintiff does not dispute compliance with the waiver requirements set forth in paragraphs 6(B) above, then Plaintiff shall file a

Satisfaction of Judgment in this case within ten days of Defendant's notification. If Defendants receives a Notice of Violation from Plaintiff related to the requirements in paragraphs 6(B), or is a party to legal action disputing compliance with the regulatory requirements in paragraph (6)(B) during the relevant time period, Plaintiff may file an objection to Defendant's notification with the Court and request that no waiver of civil penalties be granted to Defendant.

7. This Consent Decree will have no effect on any enforcement action brought by Plaintiff against Defendants for future violations of any statutes or regulations.

8. The undersigned consent without further notice to the form and entry of the foregoing Consent Decree.

DATED THIS 28 day of Feb, 2006, in Saunders County, Nebraska.

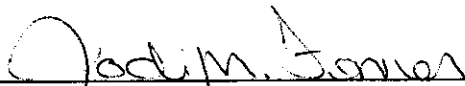
BY THE COURT:



District Judge

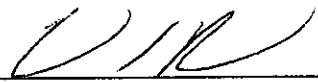
2-28-06
c: Jodi Fenner
Chad Ruda

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