

IN THE DISTRICT COURT OF SAUNDERS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	
MICHAEL J. LINDER, Director)	
NEBRASKA DEPARTMENT OF)	CASE NO. _____
ENVIRONMENTAL QUALITY,)	
Plaintiff,)	
v.)	COMPLAINT
)	
RUDA SEPTIC, L.L.C. AND CHAD RUDA)	
)	
Defendants.)	

COMES NOW the Nebraska Department of Environmental Quality (hereinafter the "Department" or "Plaintiff"), who institutes this action through Jon C. Bruning, Attorney General, and alleges and states as follows:

FIRST CLAIM

1. The Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1) (Reissue 1999) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 1999, Cum. Supp. 2004) *et seq.*
2. At all times material herein the Defendants, Ruda Septic L.L.C. and Chad Ruda were engaged in the business of installing and repairing septic systems in Nebraska.
3. Neb. Rev. Stat. §81-1508.02 (1) (e) makes it unlawful to violate a provision of or fail to perform any duty imposed by regulations.
4. Pursuant to Neb. Rev. Stat. §81-1508.02 (2), a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each

day of violation. In case of a continuing violation, each day shall constitute a separate offense.

5. Title 124, *Rules And Regulations For The Design, Operation And Maintenance Of On-Site Wastewater Treatment Systems*, Chapter 5, Section 001, requires that absorption systems be set back 25 feet from pressure-main water lines.

6. On or about May 30, 2004, 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.

SECOND CLAIM

7. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1, 2, and 6 of its First Claim.

8. Neb. Rev. Stat. § 81-15,248 (2) requires any on site wastewater system to be registered with the Department of Environmental Quality within 45 days of being constructed by the professional doing the installation.


9. Neb. Rev. Stat. § 81-15,253 provides a penalty for the violation alleged in paragraph 8 of this complaint of not more than \$10,000 for each such violation, and in the case of a continuing violation, each day shall constitute a separate violation.

10. Defendants failed to register the wastewater system with the Department of Environmental Quality within 45 days after the installation of the system.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendants in the form of civil penalties as provided in Neb. Rev. Stat. § 81-1508.02 (2) and Neb. Rev. Stat. § 81-15,253, and further that all costs of this action be taxed to the Defendants.

STATE OF NEBRASKA, ex rel.,
MICHAEL J. LINDER, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

By JON C. BRUNING, #20351
Attorney General

By 
Jodi M. Fenner, #22038
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Attorney for Plaintiff

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. _____

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} ~~five~~ ^{thousand} ^{AS} ^{CL} 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.

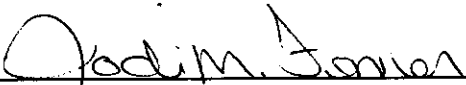
8. The undersigned consent without further notice to the form and entry of the foregoing Consent Decree.

DATED THIS _____ day of _____, 2006, in Saunders County, Nebraska.

BY THE COURT:

District Judge


By: JON C. BRUNING #20351,
Attorney General

By: 

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2115 State Capitol Building
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Ruda Septic, L.L.C.,
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By: 

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