

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF
KNOX COUNTY SID #2,
Respondent.

Case No. 2987

COMPLAINT, COMPLIANCE ORDER ON
CONSENT AND WAIVER OF OPPORTUNITY
FOR HEARING

1. This Complaint, Compliance Order on Consent, and Waiver of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507(1) (Reissue 2008) of the Nebraska Environmental Protection Act §§ 81-1501 to -1532 (Reissue 2008). The Complainant is Michael J. Linder, Director of the Nebraska Department of Environmental Quality (referred to hereinafter as NDEQ or Department). The Respondent is Knox County Sanitary and Improvement District (SID) #2, serving the Devil's Nest subdivision in Knox County. Respondent is a body corporate and politic, as provided in the laws of Nebraska.

2. The Complainant, NDEQ, is the agency of the state of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1) & (4) (Reissue 2008), to exercise exclusive general supervision, administration, and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to -1532 (Reissue 2008) and all rules, regulations, and permits promulgated under these acts. The authority of NDEQ to require compliance measures is expressed in Neb. Rev. Stat. §§ 81-1504 (7) and -1507 (Reissue 2008).

3. The Respondent, Knox County SID #2, owns and operates a system for collection and treatment of domestic wastewater in the Devil's Nest subdivision in Knox County, Nebraska, which consists of a sewer system and a treatment plant with mechanical elements.

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COMPLAINT

4. Neb. Rev. Stat. § 81-1506 (Reissue 2008) is in effect at all times material herein and states: “(1) It shall be unlawful for any person: (a) 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. ... (3) It shall be unlawful for any person to: (c) Violate any rule or regulation adopted and promulgated by the council pursuant to the Environmental Protection Act...”

5. Neb. Rev. Stat. § 81-1508.02(1)(b) (Reissue 2008) is in effect at all times material herein and states that it is unlawful to violate any regulations promulgated pursuant to the Environmental Protection Act.

6. Pursuant to Neb. Rev. Stat. § 81-1505 (Reissue 2008), the Nebraska Environmental Quality Council adopted and promulgated Title 123 of the Nebraska Administrative Code, *Rules And Regulations For The Design, Operation And Maintenance Of Wastewater Works*. Title 123, Chapter 11, 001 is in effect at all times material herein and provides that “[w]astewater 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.”

7. On or about June 30, 2010, Respondent improperly maintained its wastewater works, which resulted in an unauthorized discharge from its sewer system to land and waters of the state.

8. The Director finds that Respondent has violated Neb. Rev. Stat. § 81-1506(1)(a) and Title 123, Chapter 11, 001.

9. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. § 81-1504(7) to issue this order requiring the modification of the wastewater works as necessary to prevent, control, or abate pollution.

COMPLIANCE ORDER

10. IT IS THEREFORE ORDERED AND AGREED that the Respondent shall perform, within the times stated, the following activities:

- a. Immediately, Respondent shall prohibit and prevent any new connections to Respondent's sewer system and shall take all reasonable steps to assure that no new dwellings or users connect to the sewer system.
- b. On or before December 31, 2010, Respondent shall provide to the Department a complete list of dwellings or users which are connected to Respondent's sewer system.
- c. By December 31, 2012, Respondent shall disconnect all users, or cause all users to disconnect, from its sewer system by installing permanent physical barriers to flow or movement in both directions

11. Once all connections to Respondent's sewer system are disconnected, Respondent shall maintain the sewer system and mechanical plant in a state of suspended use, free from additional sewage or waste flows, in a manner that does not present a danger to human health or the environment. Alternatively, after all disconnections, the Respondent may abandon its wastewater system according to Neb. Admin. Code Title 123 Chapter 10.

12. Information to be submitted under this Order shall be sent to:

Charles Duerschner
Wastewater Wastewater Technical Assistance Unit
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone number: (402) 471-2186

WAIVER OF OPPORTUNITY TO REQUEST A HEARING

13 Pursuant to Neb. Rev. Stat. § 81-1507 (Reissue 2008) the Respondent has the right to apply for a hearing to contest a Complaint and Compliance Order by making a request for such hearing to the Director no later than 30 days after service hereof.

Nebraska/a Department of Environmental Quality, Rules of Practice and Procedure, Title 115, Chapter 7, sets forth the procedure of such hearings. Notwithstanding such rights, the Respondent agrees to the entry of this Order and the requirements imposed herein without contest, without further notice, and waives its opportunity for hearing.

ADVISEMENT OF POSSIBLE PENALTIES

14. 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 on Consent, and Waiver of Opportunity for Hearing. Nothing in this Complaint, Compliance Order on Consent, and Waiver of Opportunity for Hearing precludes the NDEQ from pursuing such enforcement. Failure to obey this Order may result in fine up to \$10,000 per day as set out in Neb. Rev. Stat. § 81-1508.02 (Reissue 2008).

IT IS SO ORDERED AND AGREED

Dated: September 16, 2010

By: /s/ Michael J. Linder
Michael J. Linder, Director
Nebraska Department of
Environmental Quality

Dated: 9/13/10

By: /s/ Greg Blomberg
Greg Blomberg, Chairperson
Knox County SID #2
1812 E. Otonka Ridge
Sioux Falls, SD 57103