

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF	)	CASE NO. 3008
Dale Seidel, d/b/a Pot Stop Truck Wash	)	
Burwell, Nebraska	)	COMPLAINT, COMPLIANCE
FID # 093880	)	ORDER AND NOTICE OF
	)	OPPORTUNITY FOR HEARING
Respondent.	)	

I. INTRODUCTION

This Complaint, Compliance Order and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. §81-1507 (Reissue 2008). Complainant has determined that the Respondent is in violation of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §81-1501 *et. seq.* (Reissue 2008, Supp. 2009), Title 123, *Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works*, and Title 119, *Rules and Regulations Pertaining to the Issuance of Permits Under The National Pollutant Discharge Elimination System*. The Complainant is the Director, State of Nebraska Department of Environmental Quality (hereinafter "NDEQ" or "Department"). The Respondent is Dale Seidel, doing business as Pot Stop Truck Wash, Burwell, Nebraska. The Complaint below establishes the violations.

II. COMPLAINT

1. Respondent is Dale Seidel, doing business as Pot Stop Truck Wash, Burwell, Nebraska, which owns a truck washing facility located about 1.5 miles West of Burwell, Nebraska on Highway 91, Garfield County, Nebraska.

2. Pursuant to *Neb. Rev. Stat.* § 81-1508.02 (1) (e), it is unlawful for any person to violate any rule or regulation.

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3. Pursuant to *Neb. Rev. Stat.* § 81-1506 (2) (b), it is unlawful for any person to construct, install, modify or operate any disposal system or part thereof or any extension or addition thereto without obtaining the necessary permits from the department.

4. Title 123, *Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works*, Chapter 3, prohibits construction of a wastewater works until a construction permit is issued. Title 119, *Rules and Regulations Pertaining to the Issuance Of Permits under the National Pollutant Discharge Elimination System*, Chapter 12, prohibits land application of non-domestic wastewater without a permit or approval by the Department.

5. Since 1999 and continuing to the present time, Respondent has operated a wastewater system without obtaining the necessary permits from the department for the wastewater treatment facility as actually constructed and Respondent has been land applying wastewater since 1999 without a permit or approval by the Department.

6. The Respondent is a “person” as defined in *Neb. Rev. Stat.* §81-1502(10).

7. Respondent has violated *Neb. Rev. Stat.* §81-1506 (2) (b), *Neb. Rev. Stat.* § 81-1508.02 (1) (e), Title 123 and Title 119.

8. The Director of the NDEQ is authorized pursuant to *Neb. Rev. Stat.* §81-1504(7) to issue this order requiring the construction of wastewater treatment systems or any parts thereof to prevent, control, or abate pollution.

### III. COMPLIANCE ORDER

9. The Respondent shall perform, within the following time frames, the following activities:

- A. By August 1, 2010 have a Nebraska registered professional engineer prepare and submit to the Department an engineering evaluation of the wastewater lagoon system.
- B. By September 1, 2010, have a Nebraska registered professional engineer submit plans and specifications for approval for the upgrade to the wastewater system, as needed, and meet the Department's design standards, as required by Title 123, Chapter 2, Section 003.
- C. Complete construction of the system as approved by the Department by June 1, 2011.

10. Respondent shall report to NDEQ any delay in progress with complying with paragraph 9 of this Order.

11. Respondent shall respond promptly to any written communication by the NDEQ. Any delay in responding to such communication shall be construed as non-compliance with this Order.

12. Information to be submitted under this Order shall refer to FID# 093880 and shall be sent to:

Steve Goans  
Water Quality Division  
Nebraska Department of Environmental Quality  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922  
Telephone number (402) 471-2186

#### IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

13. This Order shall become final, pursuant to *Neb. Rev. Stat.* §81-1507(1), unless Respondent files an answer and requests, in writing, a hearing no later than thirty days after receipt of this Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

14. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Title 115, *Neb. Admin. Code, Rules of Practice and Procedure*, Chapter 7. The answer and request for hearing may be filed by mail to: Michael J. Linder, 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.

#### V. SETTLEMENT CONFERENCE

15. Whether or not Respondent requests a hearing, an informal settlement conference may be requested by writing to Steve Moeller, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

16. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

#### VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

17. 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 and Notice of

Opportunity for Hearing. Nothing in this Complaint, Compliance Order and Notice of Opportunity for Hearing precludes the NDEQ from pursuing such enforcement.

May 12, 2010  
Date

/s/ Michael J. Linder  
Michael J. Linder, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, with attachments, was served by certified United States mail, postage prepaid, return receipt requested this 13<sup>th</sup> day of May 2010 upon the Respondent listed below:

Dale A. Seidel  
Pot Stop Truck Wash  
46471 Hwy. 91  
Burwell, NE 68823-6801

/s/ Steven J. Moeller  
Steven J. Moeller  
Staff Attorney