

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF)	Case No. 3016
Nancy S. Ward)	
Onsite Wastewater Treatment System)	
Located at 1602 S. Adams,)	
Lexington, Nebraska.)	
)	EMERGENCY COMPLAINT AND
)	ORDER
)	
Respondent)	

PRELIMINARY STATEMENT

This Emergency Complaint and Order is issued by the Director of the Department of Environmental Quality (herein after referred to as “Department” or “NDEQ”) pursuant to Neb. Rev. Stat. §81-1507(4) of the Environmental Protection Act (Act), Neb. Rev. Stat. §81-1501 et seq. (Reissue 2008, Supp. 2009), to require immediate action to protect the public health and welfare. The Respondent is Nancy S. Ward, 11618 W 74th Pl, Arvada, Colorado, 80005. The complaint below establishes the existence of the emergency and the emergency order sets out the specific actions that must be taken to abate the emergency. This Emergency Complaint and Order is effective immediately upon issuance. The Respondent shall be afforded the opportunity for a hearing upon application in writing to the director, such hearing to take place as soon as possible and not later than 10 days after a request is made.

COMPLAINT

1. Respondent Nancy S. Ward, is the owner of a dwelling and property located at 1602 S. Adams, Lexington, Nebraska.

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

3. Title 124, *RULES AND REGULATIONS FOR THE DESIGN, OPERATION AND MAINTENANCE OF ON-SITE WASTEWATER TREATMENT SYSTEMS*, Chapter 2, Section 007.03, prohibits discharging wastewater from an onsite wastewater treatment system to the land surface without Department approval.

4. On April 20, 2010, and on May 24, 2010, government employees observed that the septic tank at 1602 S. Adams, Lexington, Nebraska, had failed and that wastewater was discharging to the ground surface and ponding. A Notice of Violation was issued to Respondent on April 26, 2010, but no response was been made by the Respondent. The wastewater on the surface appears to be located close to other residences and is in an area where children are playing. The wastewater is also in an area accessible to animals. These facts constitute an emergency under *Neb. Rev. Stat.* 81-1507(4).

EMERGENCY ORDER

IT IS HEREBY ORDERED THAT:

5. Respondent shall:

- a. Immediately eliminate discharges of wastewater to the land surface and notify the NDEQ On-Site Wastewater Unit when the discharge of wastewater to the surface is eliminated.

- b. Immediately remove all accumulated wastewater, contaminated soil or other materials impacted from the discharge of wastewater and dispose/manage them in accordance with all rules and regulations.
- c. Within 30 days of this Order take steps to permanently solve this wastewater problem and notify the Department as to what steps were taken. If the system is repaired or replaced, it must meet all requirements of Title 124, including that all work must be done by a certified professional.
- d. If any work is done repairing the system or installing a new system, notify NDEQ On-Site Wastewater Unit 5 days before work begins of the name of the on-site wastewater professional that is going to do the installation or repair. Respondent shall take steps to ensure that the person doing the work registers the new system with the Department within 45 days of installation
- e. Allow NDEQ or its agents access to the property to verify compliance.

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

Gary Buttermore
On Site Wastewater Unit Supervisor
Water Quality Division
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone number (402) 471-2186

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

7. In accordance with Neb. Rev. Stat. §81-1507(4), this Emergency Complaint and Order shall become final upon issuance. The Respondent is required to comply with the Emergency Complaint and Order upon receipt.

8. The Respondent may request a hearing by submitting a request to the director in writing upon receipt of the Emergency Complaint and Order. Such hearing shall be scheduled as soon as possible but not later than 10 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 with this Emergency Complaint and Order.

9. This Emergency Complaint and Order does not preclude the Department from pursuing any other action including additional enforcement in the proper court for injunctive relief and penalties, or an administrative order based on violations of the Act. The Department further reserves the right to impose additional obligations to abate or eliminate the discharge by further order or action by the Director.

Dated this 1st day of June, 2010.

/s/ Michael J. Linder
Michael J. Linder
Director
Department of Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Emergency Complaint and Order was served by certified United States mail, postage prepaid, return receipt requested this 2nd day of June 2010 upon the Respondent listed below:

Nancy S. Ward, 11618 W 74th Pl, Arvada, Colorado, 80005.

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