

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF
THE VILLAGE OF BRADY
Respondent.

Case No. 3160
COMPLAINT, COMPLIANCE ORDER,
AND NOTICE OF OPPORTUNITY
FOR HEARING

COMPLAINT

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. §81-1507 of the Nebraska Environmental Act §81- 1501 et seq. (Reissue 2008).

2. The Complainant, NDEQ, is the agency of the state of Nebraska charged with the duty pursuant to Neb. Rev. Stat. § 81-1504(1) and (4) (Reissue 2008) of exercising exclusive general supervision, administration, and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq., and all rules, regulations and permits promulgated thereunder. The authority of NDEQ to require compliance measures is expressed in Neb. Rev. Stat. § 81-1504 (7) and § 81-1507 (Reissue 2008). The Respondent is the Village of Brady in Lincoln County, Nebraska.

3. Pursuant to Neb. Rev. Stat. §81-1505 the Nebraska Environmental Quality Council adopted Title 123, Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works, providing in part as follows:

"Chapter 11- OPERATION AND MAINTENANCE OF WASTEWATER WORKS

001 Wastewater 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 or an unauthorized discharge."

008 The operation and maintenance of wastewater lagoons shall be conducted in the following manner:

008.01 Lagoon dikes shall be maintained with grass to minimize soil erosion, except for areas protected by rip rap or other stabilization methods. The grassed



dikes shall be mowed to prevent growth of trees or woody plants. Cattails, reeds and other emergent vegetation shall be removed from the lagoons promptly as they appear. ...

008.06 The liners of wastewater lagoons shall be maintained so that wastewater seepage does not exceed the rate approved by the Department in the construction plans and specifications. Where no record of approved plans and specifications exist, the lagoon liner shall be maintained to meet the seepage rate prescribed by the Department for the specific wastewater being treated. The owner shall perform seepage testing when requested by the Department. ..."

4. The Respondent owns and operates a system for collection and treatment of municipal wastewater consisting of a sewer system and a four-cell lagoon system in Lincoln County, Nebraska. Two of the four cells, cells 1 and 2, have been used regularly since March 30, 2007. The remaining two cells, cells 3 and 4, have not been used regularly since March 30, 2007.

5. Cells 1 and 2 have since October 15, 2009, to the date of this order, not been maintained in proper operating condition and have contained uncontrolled growth of trees, woody plants, and emergent vegetation, and as a result the lagoons have seeped and discharged to groundwater at a rate of 28 to 100 inches per day, contrary to the NDEQ wastewater facilities approved plans and specifications, US EPA project reference # C310638, which limits discharges to groundwater from lagoons to not more than one-quarter inch per day.

6. Cells 3 and 4 have since March 30, 2007, to the date of this order, not been maintained in proper operating condition and have contained uncontrolled growth of trees, woody plants and emergent vegetation and as a result if wastewater were introduced to these cells the lagoons would seep and discharge to groundwater at a rate in excess of that permitted by the approved plans and specifications in US EPA project # C310638.

COMPLIANCE ORDER

7. IT IS THEREFORE ORDERED that the Respondent shall not introduce wastewater to cells 3 and 4 except upon express written permission of NDEQ.

8. IT IS FURTHER ORDERED that on or before November 1, 2012, the Respondent shall submit a written plan to NDEQ for correction of all deficiencies to the wastewater treatment facility and collection system identified in the Engineering Report submitted to NDEQ on December 20, 2011, including restoration of any lagoon cells that will be used in the future and proper abandonment of any cells that are not intended for future use in the plan; and upon approval by NDEQ of any measures in the way of operation and maintenance not requiring a construction permit the Respondent shall immediately implement and continue such measures.

9. IT IS FURTHER ORDERED that on or before January 1, 2013, the Respondent shall submit plans and specifications, prepared by a professional engineer licensed to practice in Nebraska, for all modifications and construction requiring permits as specified in Title 123 to NDEQ for review and approval.

10. IT IS FURTHER ORDERED that on or before December 31, 2013, the Respondent shall complete construction of all wastewater improvements for which NDEQ has issued construction permits according to the terms of those permits.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

11. Pursuant to Neb. Rev. Stat. § 81-1507 (Reissue 2008) the Respondent has the right to apply for a hearing to contest this Complaint and Compliance Order by making a request for such hearing to the Director no later than 30 days after service hereof. Nebraska Department of Environmental Quality, Rules of Practice and Procedure, Title 115, Chapter 7, sets forth the procedure of such hearings.

ADVISEMENT OF POSSIBLE PENALTIES

12. 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. Failure to obey this order may result in civil penalties of up to \$10,000 per day as set out in Neb. Rev. Stat. §81-1508.02 (Reissue 2008).

Dated: _____

July 11 2012

By: _____



Michael J. Linder, Director
Nebraska Department of
Environmental Quality

AFFIDAVIT

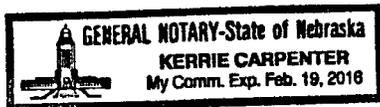
STATE OF NEBRASKA | SS
COUNTY OF LANCASTER |

The undersigned oath deposes and says that on the 12th day of July, 2012, he caused an exact copy of the attached Complaint, Compliance Order on Consent, and Notice of Opportunity for Hearing, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

Jeff Miller, Chairperson
Village of Brady
121 Noth Main
PO Box 153
Brady, Nebraska 69123


Timothy J. Doyle, affiant

Subscribed and sworn to before me, a Notary Public, on the 12th day of July, 2012.




Notary Public