

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF
THE VILLAGE OF BROWNVILLE,
Respondent.

Case No. 3162
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(1) of the Nebraska Environmental Protection Act § 81-1501 et seq (Reissue 1999, Cum Supp. 2006, Supp. 2007). The Complainant is Michael J. Linder, Director of the Nebraska Department of Environmental Quality (referred to herein as NDEQ). The Respondent is the Village of Brownville, Nemaha County, 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) and (4) (Reissue 1999) 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 1999).

3. The Respondent owns and operates a system for collection and treatment of municipal wastewater consisting of a sewer system and mechanical treatment plant in Nemaha County, Nebraska. The Respondent was issued a National Pollutant Discharge Elimination System (NPDES) permit on March 2, 2006. The permit as extended is in effect at all times material herein and provides in part as follows:

“...Part I. Outfall 001 Discharge to Receiving Stream Requirements. The discharge of treated sanitary wastewater from the Outfall 001, final effluent, is authorized and shall be monitored and limited as specified ... Total Suspended Solids Units mg/L...7-Day Average 45.0...Part IV. Other Requirements and Conditions A. Requirements for removal of CBOD The 30-day average percent removal of CBOD by the WWTF shall not be less than 85%. ...B. Narrative Limits, Discharges authorized under this permit:...1. Shall not contain pollutants at concentrations or levels that produce objectionable films, colors, turbidity, deposits, or noxious



odors in the receiving stream or waterway... Appendix A - Standard Conditions that Apply to NPDES and NPP Permits These general conditions are applicable to all NPDES and NPP Permits. ... D. Written Noncompliance Notification a. The permittee shall submit a written noncompliance report to the NDEQ: i) within five days of becoming aware of any noncompliance with the: ...(b) NPDES toxic pollutant effluent limitations or requirements set forth in this permit, ... ii) within seven days of becoming aware of any other noncompliance with the NPDES requirements and/or effluent limitations set forth in this permit. ... " E. Proper Operation and Maintenance 1. Proper Operation and Maintenance The permittee shall, at all times, maintain in good working order and operate as efficiently as possible, any facilities or systems of control installed by the permittee in order to achieve compliance with the terms and conditions of this permit. This would include, but not be limited to, effective performance based on designed facility removals, effective management, adequate operator staffing and training, adequate laboratory and process controls..."

4. On March 6 and 7, 2012, the Respondent discharged wastewater from Outfall 1 having a concentration of TSS that exceeded the permit's maximum 7 day average limits of 45 mg/L, contrary to the permit.

5. On March 7, 2012, the Respondent discharged wastewater from Outfall 1 when the 30-day average percent removal of CBOD by the WWTF was less than 85%, contrary to the permit.

6. On March 6, 2012, the Respondent discharged wastewater containing pollutants at concentrations and levels that produced objectionable films, colors, turbidity, and deposits, contrary to the permit.

7. From September 14, 2010, through March 8, 2012, the Respondent failed to maintain its wastewater treatment and collection systems in good working order and did not operate them as efficiently as possible contrary to the permit in that: sludge was allowed to accumulate to the point of impeding proper operation; no records of sludge removal were kept; required pH and total residual chlorine samples were analyzed and reported from composites of multiple samples instead of the single "grab sample" required by permit; the bar screen at the lift station was not cleared of accumulated debris with consequent impeding of wastewater flow.

8. More than seven days passed in each instance after the occurrence of each noncompliance with the NPDES permit described in paragraphs 6, 7, 8, and 9 above, and after

the Respondent became aware of each noncompliance, yet in each instance the Respondent failed to give NDEQ notice of the noncompliance as required by the permit.

COMPLIANCE ORDER

9. IT IS THEREFORE ORDERED that the Respondent shall perform the following tasks on or before the stated dates:

A. Immediately commence and continue prompt and accurate reporting of all NPDES permit noncompliance and wastewater facility malfunction to NDEQ.

B. Immediately commence and continue consistently wastewater facility influent and effluent sampling and reporting of the same as required by the Respondent's NPDES permit.

C. On or before September 15, 2012, the Respondent shall retain the services of a professional engineer licensed to practice in Nebraska for the purpose of performing the task required in the subparagraph D immediately below.

D. On or before March 15, 2013, the Respondent shall submit a wastewater facility plan prepared by a professional engineer licensed in Nebraska, including an accurate design and performance evaluation of the city's wastewater collection system and flow regime.

E. On or before September 15, 2013, the Respondent shall submit plans and specifications for all parts of its wastewater system improvements deemed to be in need of repair and replacement in the wastewater facility plan as required by this order. The plans and specifications when submitted shall be addressed as follows:

Charles Duerschner
Technical Assistance Unit
Water Quality Division
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922

F. On or before September 15, 2014, the Respondent shall complete construction of the improvements specified in the plans and specifications as approved by NDEQ.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

10. 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

11. 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 30 2012

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

AFFIDAVIT

STATE OF NEBRASKA | SS
COUNTY OF LANCASTER |

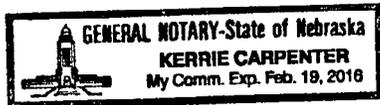
The undersigned oath deposes and says that on the 1st day of August, 2012, he caused an exact copy of the attached Complaint, Compliance Order, and Notice of Opportunity for Hearing, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

Martin Hayes, Chairperson
Village of Brownville
PO Box 67
Brownville, Nebraska 68321



Timothy J. Doyle, affiant

Subscribed and sworn to before me, a Notary Public, on the 1st day of August, 2012.





Notary Public