

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF
THE PRAIRIE CLUB, LLC
Respondent.

Case No. 3121
COMPLAINT, COMPLIANCE ORDER ON
CONSENT, 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 2008). The Complainant is Michael J. Linder, Director, on behalf of the Nebraska Department of Environmental Quality (referred to herein as NDEQ). The Respondent is The Prairie Club, LLC, a limited liability company doing business in Cherry County, 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 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).

3. The Respondent owns and operates a heat pump system that discharges pollutants, namely heat and hydrogen and hydroxide ions, to waters of the State of Nebraska, specifically a tributary of the Snake River in Cherry County, Nebraska. The Respondent was issued a National Pollutant Discharge Elimination System (NPDES) permit effective initially May 1, 2010, and thereafter effective at all times material herein. The permit provides in part as follows:

Part II. Effluent Limits and Monitoring Requirements. ...The discharge shall be monitored and subject to the limits set forth in the following table. Monitoring shall be conducted at a point prior to discharge into the undesignated tributary of the Snake River...Parameter...Flow...Monitoring Frequency...Monthly...Parameter...Temperature...Monitoring Frequency...Monthly...Other Parameters...pH...Monitoring Frequency...Monthly...Part III. Other Conditions and Requirements...Appendix A...

5. Quarterly Discharge Monitoring Reports (DMRs) ...The permittee shall report the



monitoring results required by this permit on a DMR form supplied or approved by the Department. ...Monitoring results shall be submitted on a quarterly basis using the reporting schedule set forth below, unless otherwise specified in this permit by the Department. Monitoring results shall be submitted on a quarterly basis using the schedule set forth below ...Monitoring Quarters DMR Reporting Deadlines ... January-March ...April 28 ...April-June ...July 28 ...July-September ...October 28, October-December ... January 28..."

4. There has been an obligation under the permit to monitor the respondent's discharge each month since the permit's effective date of May 1, 2010, yet in violation of the permit during each month from and after the effective date the Respondent has failed to monitor its discharge.

5. There has been an obligation under the permit to make quarterly monitoring reports to the Department since the permit's effective date of May 1, 2010, yet in violation of the permit during each quarter from and after the effective date the Respondent has failed to submit discharge monitoring reports to the Department.

COMPLIANCE ORDER

8. IT IS THEREFORE ORDERED that the Respondent shall perform all monitoring required in its NPDES permit and shall make timely reports of the results of such monitoring to the Department as required in the permit.

9. IT IS FURTHER ORDERED that the Respondent shall within 30 days after service of this order submit a discharge monitoring report for each month from and after May 1, 2010.

10. IT IS FURTHER ORDERED that the Respondent shall within 120 days after service of this order shall obtain the necessary wastewater facilities construction permits from NDEQ and install a flow measuring device and a sampling port adequate to perform the monitoring obligations in its NPDES permit, and upon completion inform the NDEQ in writing of the precise location of the measuring device and port.

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: January 13 2012

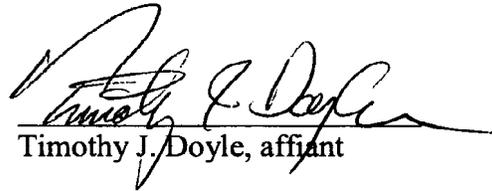
By: 
Michael J. Linder, Director
Nebraska Department of
Environmental Quality

AFFIDAVIT

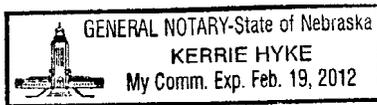
STATE OF NEBRASKA | SS
COUNTY OF LANCASTER |

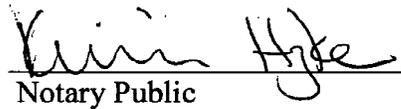
The undersigned oath deposes and says that on the 13th day of January, 2012, he caused an exact copy of the attached Complaint, Compliance Order on Consent, and Notice of Opportunity for Hearing, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

Ross Buckendaul
The Praire Club, LLC
88897 State Highway 97
Valentine, Nebraska 69201


Timothy J. Doyle, affiant

Subscribed and sworn to before me, a Notary Public, on the 13th day of January, 2012.




Notary Public