

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF)	Case No. 3281
Paul Reed Construction &)	
Supply Inc.)	COMPLAINT, COMPLIANCE ORDER
2970 N. 10 th St.)	AND NOTICE OF
Gering, Nebraska,)	OPPORTUNITY FOR HEARING
FID #90050)	
)	
Respondents.)	

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, Neb. Rev. Stat. §§ 81-1501 to 1532. The Complainant is Patrick W. Rice, Acting Director of the Nebraska Department of Environmental Quality (NDEQ). The Respondent is Paul Reed Construction & Supply Inc., a corporation authorized to do business in Nebraska. The Complaint below establishes the violations of the act.

COMPLAINT

2. The Complainant, the Department, is the agency of the state of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1) & (4), of exercising exclusive general supervision, administration, and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to - 1532, 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.

3. The Respondent owns and operates a construction company located in Gering Nebraska. In 2012 the Respondent, Paul Reed Construction & Supply Inc., was contracted to provide ground cover material during the closure of Nebraska Public Power District (NPPD) Bluff station. About October 1, 2012, Respondent provided ground cover material that was contaminated with



asbestos. NPPD demanded that the contaminated material be removed and eventually both Nebraska Department of Health and Human Services and NDEQ became involved in the removal. The contaminated material was transported back to the Respondent's property with the understanding that the contaminated material was to be covered and, as soon as possible, disposed of at a permitted landfill. In June 2014, it was observed that the contaminated material was still on Respondent's property and that the material which is estimated to be sixty feet long, forty feet high, ranging from fifteen to forty feet high, and weighing approximately 3966 tons, is no longer completely covered.

4. Neb. Rev. Stat. § 81-1502(10) defines Respondent as a "person."

5. Neb. Rev. Stat. § 13-2033(1) provides in pertinent part as follows: "...no person shall dump or deposit any solid waste at any place other than a landfill approved by the director unless the department has granted a permit which allows the dumping or depositing of solid waste at any other facility." Neb. Rev. Stat. § 81-1506(3) states that: "It shall be unlawful for any person to: ... (d) After October 1, 1993, dispose of any solid waste at a location other than a solid waste management facility holding a current permit issued by the department pursuant to the Integrated Solid Waste Management Act." Title 132, Integrated Solid Waste Management Regulations, Chapter 2, Section 001, prohibits operating a solid waste management facility without a permit.

6. On or about November 9, 2012 Respondent dumped and deposited solid waste on the Respondent's property. At some point after November 9, 2012, the debris was disposed of without a permit, contrary to §§ 13-2033 and 81-1506(3) and the Respondent was operating a solid waste disposal facility without a permit as required by Title 132, Chapter 2, Section 001.

7. The Director finds that Respondent has violated Neb. Rev. Stat. §§ 13-2033, 81-1506 (3)(d) and Title 132, Chapter 2, Section 001.

8. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. § 81-1504(7) to issue this order requiring Respondents to cease unlawful disposal of solid waste.

COMPLIANCE ORDER

9. IT IS THEREFORE ORDERED that the Respondent shall perform, within the following time frames, the following activities:

- a. On or before November 1, 2014, the Respondent shall properly dispose of all solid wastes as described in paragraph 3 above at a permitted solid waste landfill and take all necessary precautions during storage, removal and transportation to minimize the spread of asbestos into the environment. Respondent shall send proof of proper disposal to the Department by November 15, 2014.

10. Any information to be submitted under this Order shall be sent to:

William C. Gidley
Waste Management Section Supervisor
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

11. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondent(s) file an answer and request, 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.

12. 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:

Patrick W. Rice, Acting Director
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.

SETTLEMENT CONFERENCE

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

14. 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.

INJUNCTIVE RELIEF AND PENALTY PROVISIONS

15. 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 fines up to \$10,000, per violation, per day, as set out in Neb. Rev. Stat. § 81-1508.02.

8/26/2014

Date

Patrick W. Rice

Patrick W. Rice, Acting 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 26th day of August 2014 upon the Respondents listed below:

Thomas J. Holyoke, Registered Agent
1714 Second Avenue
P.O. Box 2424
Scottsbluff, NE 693632424



Attorney