

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF	)	CASE NO. 3310
Village of Clearwater,	)	
A political subdivision of the	)	
State of Nebraska,	)	COMPLAINT, COMPLIANCE
FID#57931	)	ORDER AND NOTICE OF
	)	OPPORTUNITY FOR HEARING
Respondent.	)	

I. INTRODUCTION

This Complaint, Compliance Order and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. §81-1507 (Reissue 2014). Complainant has determined that the Respondent is in violation of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §81-1501 *et. seq.* (Reissue 2014) and Title 119, *Rules and Regulations Pertaining to the Issuance of Permits Under The National Pollutant Discharge Elimination System*. The Complainant is the Director, State of Nebraska Department of Environmental Quality (hereinafter "NDEQ" or "Department"). The Respondent is the Village of Clearwater. With the goal of proper wastewater treatment and prevention of non-permitted discharges of pollution, the Complaint below establishes the violations.

II. COMPLAINT

1. At all times material herein the Respondent, Village of Clearwater, a political subdivision of the State of Nebraska, has owned and operated a wastewater collection and treatment facility located in Antelope County, Nebraska. The treatment system currently drains to a wetland, which in turn drains into the Elkhorn River.

2. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules for the issuance of operating permits for sources of water pollution,



as expressed in Neb. Rev. Stat. §81-1505(11), the Council adopted a rule and standard codified as Title 119, *Rules and Regulations Pertaining To The Issuance of Permits Under the National Pollutant Discharge Elimination System*.

3. Discharging pollutants from a point source into waters of the state without a permit is a violation of Title 119, Chapter 2 and 81-1506 (2) (a).

4. Over the last four years Respondent, without a permit to discharge, has allowed both the lift station and the lagoon to overflow into an area causing a wetland that eventually drains to the Elkhorn River.

5. The Respondent is a "person" as defined in Neb. Rev. Stat. §81-1502(10).

6. Respondent has violated Neb. Rev. Stat. § 81-1508.02 (1) (e ) and (2).

7. The Director also finds that the activity defined in paragraph 4 above poses a potential risk to surface and ground water quality and is a potential risk to public health or welfare.

### III. COMPLIANCE ORDER

8. IT IS HEREBY ORDERED THAT RESPONDENT SHALL:

A. Each year, beginning January 1, 2016, submit quarterly (January 1, April 1, July 1, October 1) progress reports to NDEQ on the activities listed in paragraph 8 of this Order. These reports shall contain information regarding the activities associated with the project, construction schedules and completion dates.

B. By October 1, 2016, complete sanitary sewer improvements needed to reduce wastewater flows identified in the closed circuit

television investigation; install a flow measurement device that accurately records flows; and provide warning signs for wetland area that untreated wastewater is present.

C. By October 1, 2017, use flow measuring device to measure flows for at least six months and submit a new facility plan for approval to NDEQ. Upon approval of the facility plan this Order will be amended by NDEQ to provide a construction compliance schedule.

D. Until written approval by the Department, the Respondent shall not add and shall not allow any other person or party to add service connections to the sanitary sewer system as of the date of this Order.

9. Respondent shall report to NDEQ any delay in progress with complying with paragraph 8 of this Order.

10. Respondent shall respond promptly to any written communication by the NDEQ. Any delay in responding to such communication shall be construed as non-compliance with this Order.

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

Steve Goans  
Water Quality Division  
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

12. This Complaint, Compliance Order and Notice of Opportunity shall become final, pursuant to Neb. Rev. Stat. §81-1507(1), unless Respondent files a written answer no later than thirty days after receipt of this Order and requests a hearing. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

13. A written answer to the Complaint, Compliance Order and Notice of Opportunity must conform to the requirements of Title 115, Neb. Admin. Code, Rules of Practice and Procedure, Chapter 7 (See attachment 2). The answer and request for hearing may be filed by mail to: Jim Macy, Director, State of 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.

#### V. SETTLEMENT CONFERENCE

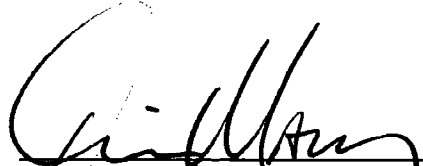
14. Whether or not Respondent requests a hearing, an informal settlement conference may be requested by writing to Steve Moeller, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

15. 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 Complaint, Compliance Order and Notice of Opportunity.

#### VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

16. 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 precludes the NDEQ from pursuing such enforcement.

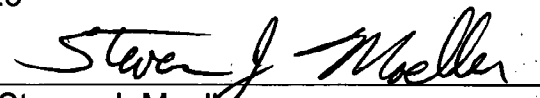
5-19-15  
Date

  
Jim Macy, 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 20<sup>th</sup> day of May 2015 upon the person listed below:

Steve Hankla  
Village board Chair  
P.O. Box 116  
Clearwater, Nebraska 68726

  
Steven J. Moeller  
Staff Attorney