

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF)	Case No. 3294
Dan E. Zook)	
87676-516 Road, Verdigre, NE)	
Knox County, Nebraska)	COMPLAINT, ORDER AND NOTICE
Onsite Wastewater Treatment System)	OF OPPORTUNITY FOR
F.I.D. # 100907)	HEARING
)	
Respondents)	

PRELIMINARY STATEMENT

This Complaint, Order, and Opportunity for Hearing is issued by the Director of the Department of Environmental Quality (herein after referred to as "Department" or "NDEQ") pursuant to Neb. Rev. Stat. §81-1507(1) of the Environmental Protection Act (Act), Neb. Rev. Stat. §81-1501 et seq. (Reissue 2008). The Respondent is Dan E. Zook. The Complaint below establishes the violations, the Order sets out what is required of the Respondent and the Notice of Hearing sets out how to ask for a hearing in this matter.

COMPLAINT

1. Respondent Dan E. Zook is the owner of property located at 51528 881th Road, Verdigre, Knox County, Nebraska that has an on-site wastewater system.
2. Pursuant to *Neb. Rev. Stat.* § 81-1508.02 (1) (e), it is unlawful for any person to violate any rule or regulation.
3. Title 124, *RULES AND REGULATIONS FOR THE DESIGN, OPERATION AND MAINTENANCE OF ON-SITE WASTEWATER TREATMENT SYSTEMS*, Chapter 3, Section 008.03 prohibits operating an on-site system if the system was constructed without a construction permit and did not meet the

requirements for authorization by rule to construct without a permit; and Section 008.04, prohibits operating an on-site waste system if the system is endangering public health, failing or if operation of the system results in a prohibited discharge.

4. From January 2013 to the present, the Respondent has been operating an on-site wastewater system which has failed because it does not meet the requirements of Title 124.

5. The Director finds that Respondent has violated Title 124, Chapter 3, Sections 008.03 and 008.04.

ORDER

IT IS HEREBY ORDERED THAT:

6. Respondent shall:

- a. Immediately cease the use of the vault toilets and obtain the services of a Title 124 certified pumper to remove and properly dispose of any accumulated wastes within 15 days.
- b. Within 30 days of this Order, submit to the Department the name of the onsite wastewater professional who will be installing / repairing and registering the onsite wastewater treatment system.
- c. Within 90 days of this Order, submit to the Department evidence that the existing failed onsite wastewater treatment system has been repaired or modified by a certified professional in compliance with Title 124.

d. Allow NDEQ or its agents access to the property to verify compliance.

7. Respondent shall take steps to ensure that the certified professional doing the work registers the new system with the Department within 45 days of installation.

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

Steve Goans
Wastewater Section Supervisor
Water Quality Division
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone number (402) 471-2186

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

9. In accordance with *Neb. Rev. Stat.* §81-1507(1), this Order shall become final unless the Respondent files an answer and requests a hearing in writing no later than 30 days after receipt of the Complaint, Compliance Order and Notice of Opportunity for Hearing.

10. If the Respondent decides to contest this Order, a written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Chapter 7. The answer and request for hearing must be filed with the Director, Department of Environmental Quality, P.O. BOX 98922, Lincoln, Nebraska 68509-8922.

11. Failure to answer shall be deemed an admission of the facts of the Complaint. Violation of this Order may result in penalties of up to \$10,000 per day.

12. This Complaint, Compliance, Order and Notice of Opportunity for Hearing does not preclude the Department of Environmental Quality from pursuing enforcement in the proper court for injunctive relief and penalties based on violations of state statutes or regulations.

Dated this 18th day of December, 2014.



Patrick W. Rice
Acting Director
Department of Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Order and Notice of Opportunity was served by certified United States mail, postage prepaid, return receipt requested this 19th day of December 2014 upon the Respondent and persons listed below:

Dan E. Zook, 87676 - 516 Road, Verdigre, NE 68783.



Steven J. Moeller
Staff Attorney