

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF )  
CITY OF CROFTON, NEBRASKA )  
Wastewater Treatment Facility FID # 57689 )  
 )  
 )  
Respondent. )  
 )

CASE NO. 3357

CONSENT ORDER

**I. INTRODUCTION**

1. The Nebraska Department of Environmental Quality (NDEQ or Department) and the City of Crofton (Respondent), voluntarily enter into this Consent Order. The Consent Order requires Respondent to achieve and maintain compliance with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 et seq. (Cum. Supp. 2015; Reissue 2014), Title 119 – *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System*; and Title 123 - *Rules And Regulations For The Design, Operation And Maintenance Of Wastewater Works*; and the Clean Water Act, as amended (33 U.S.C. 1251 et. seq.) This Consent Order also requires Respondent to comply with the activities and schedules specified in Section V, below.

2. The NDEQ is the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. § 81-1504(1) of exercising exclusive general supervision, administration, and enforcement of the NEPA. This Consent Order is issued under the authority vested in the Director of the NDEQ by Neb. Rev. Stat. §§ 81-1504..

3. The Respondent admits to and agrees not to contest the jurisdictional allegations referenced herein.



4. Respondent waives its right to receipt of a complaint and all notice and hearing requirements provided in Neb. Rev. Stat. §81-1507 for the violations alleged herein.

## II. PARTIES

5. The parties to this Consent Order are the Nebraska Department of Environmental Quality (NDEQ or Department) and the City of Crofton (Respondent). This Consent Order is binding on the NDEQ and the Respondent and its successors and assigns.

## III. FINDINGS OF FACT

6. At all times material herein the Respondent has owned and operated a Wastewater Treatment Facility (WWTF) located on the east side of the City of Crofton, in the SW1/4, SE1/4, Sec. 24, T32N, R2W, Knox County, Nebraska.

7. Neb. Rev. Stat. §81-1508.02 (1) states that it is unlawful for any person to violate a permit or license condition or limitation and any provision or duty imposed by Department rules and regulations.

8. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules for the issuance of operating permits for the purpose of limiting or prohibiting discharges of from point sources, as expressed in Neb. Rev. Stat. § 81-1505, the Council adopted a rule codified as Title 119, Nebraska Administrative Code, *Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System (NPDES)*.

9. Respondent's WWTF was issued NPDES Permit # NE0049131 (hereinafter "Permit"), on September 20, 2012 by the Department and said Permit has, at all times material herein, been in full force and effect.

10. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules for the issuance of operating permits for the purpose of limiting or prohibiting discharge

of wastewater, as expressed in Neb. Rev. Stat. § 81-1505, the Council adopted a rule codified as Title 123 - *Rules And Regulations For The Design, Operation And Maintenance Of Wastewater Works*.

11. Title 123, Ch. 11.004, requires Respondent to operate and maintain the WWTF in proper working condition: "All mechanical devices, including standby or backup units, that are designed and installed in the original WWTF or lift station shall be promptly repaired or replaced when they become inoperable."

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

#### **IV. STIPULATION**

13. The Respondent admits to the findings of fact and conclusions of law referenced in Section III, above.

14. The Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order. The Respondent agrees that it will not contest the basis or validity of this Consent Order in any proceedings by the NDEQ to enforce this Consent Order.

15. The Respondent shall be responsible for any noncompliance with this Consent Order by itself, its contractors, sub-contractors, and representatives.

16. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. § 81-1504 to enter into this Order requiring Respondent to modify their WWTF facility as necessary to prevent, control, or abate pollution as required by this Order.

#### **V. COMPLIANCE ORDER and SCHEDULE**

17. Respondent agrees to the following Compliance Order and Schedule:

a. By July 1, 2017, notify the Department of a selected wastewater treatment option as identified in the September 2015 *Wastewater Treatment & Collection System Evaluation* report prepared by Olsson Associates;

b. By October 1, 2019, submit Plans and Specifications for the selected option;

c. By April 1, 2020 begin construction in accordance with approved Plans and Specifications; and

d. By July 1, 2022 complete construction of the approved wastewater treatment option.

18. All plans and specifications and engineering reports submitted in accordance with this Order shall be signed and sealed by a Nebraska Professional Engineer (P.E.) and shall be subject to NDEQ review and approval.

19. Respondent shall respond in writing within twenty (20) working days to all requests for information or clarification by NDEQ.

20. Respondent shall ensure that any contractors, sub-contractors and representatives implementing any provision of this Consent Order receive a copy of this Consent Order.

21. All terms and references used in this Consent Order shall have the same meaning as any relevant permit. No other terms or conditions of any permit are affected by this Consent Order.

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

Water Quality Division  
Nebraska Dept. of Environmental Quality  
PO Box 98922  
Lincoln, NE 68509-8922  
Telephone: 402-471-4210

## **VI. COMPLIANCE WITH OTHER LAWS**

23. The Respondent shall perform all actions required by this Consent Order in accordance with all applicable local, state, and federal laws, regulations and permits.

## **VII. RESERVATION OF RIGHTS**

24. Nothing in this Consent Order shall be construed to sanction any violation of state or Federal law or limit the power and authority of the NDEQ to take or order any action necessary to protect public health, welfare, or the environment or to enforce any provision of NEPA and any rules, regulations, orders, or permits issued pursuant to NEPA.

## **VIII. NEGATION OF AGENCY RELATIONSHIP**

25. Nothing contained in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between the NDEQ and the Respondent.

## **IX. AMENDMENT**

26. This Consent Order may be modified and amended in writing by mutual agreement of the NDEQ and the Respondent.

## **X. EFFECTIVE DATE**

27. This Consent Order shall become effective on the date it is signed by the Director of the NDEQ or his designee.

## **XI. SEVERABILITY**

28. If any provision or authority of this Order or the application of this Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in force and shall not be affected thereby.

**XII. SIGNATURES**

For the Respondent: The undersigned representative of the Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind the Respondent.

By: Wendell Stum  
Title: Mayor of Crofton,  
Date: 4-27-2016

For the NDEQ: IT IS ORDERED and agreed this 16<sup>th</sup> day of November 2016.

By: [Signature]  
Jim Muey  
Director  
Department of Environmental Quality

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Consent Order was sent by certified mail, return receipt requested on this 16<sup>th</sup> day of November, 2016, to the following:

Charlie Gail Hendrix  
PO Box 39  
1104 W 2<sup>nd</sup> St  
Crofton NE 68730

  
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Thomas O'Connor, Attorney