

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF
THE VILLAGE OF LODGEPOLE,
Respondent.

Case No. 3096
COMPLAINT, COMPLIANCE ORDER ON
CONSENT, WAIVER OF OPPORTUNITY
FOR HEARING

COMPLAINT

1. This Complaint, Compliance Order on Consent, and Waiver 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) and agreed to and endorsed by the Respondent. The Complainant is Michael J. Linder, Director of the Nebraska Department of Environmental Quality (referred to herein as NDEQ). The Respondent is the Village of Lodgepole, Cheyenne County, a body corporate and politic, as provided in the laws of 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 system for collection and treatment of municipal wastewater consisting of a sewer system and two-cell controlled discharge lagoon in Cheyenne County, Nebraska. The Respondent was issued a National Pollutant Discharge Elimination System (NPDES) permit on November 29, 2005. The permit provides in part as follows:

“...Part II. Discharge Limitations and Monitoring Requirements ...A. Table 1 Discharge Limitations for Outfall 001...A. Table 1 Discharge Limitations and Monitoring Requirements for Outfall 001...The treated wastewater discharge is authorized and shall be monitored and limited as specified in the following table. ...Parameter... Carbonaceous Biochemical Oxygen Demand ...Discharge Limitations ...30-Day Average ...Units...mg/L [milligrams per liter]...25...B. Table 2 Seasonal Discharge Limitations and Monitoring Requirements for Outfall 001 The treated wastewater discharge is authorized and shall be monitored and limited as specified in the



following table. ...Spring Water Quality Season Discharge Limitations and Monitoring Requirements (March 1 through May 31)...Parameters...Ammonia as Nitrogen ...Discharge Limitations...30-Day Average...Units ...mg/L [milligrams per liter] ...5.25...Summer Water Quality Season Discharge Limitations and Monitoring Requirements (June 1 through October 31)...Parameters...Ammonia as Nitrogen...Discharge Limitations...30-Day Average...Units...mg/L...2.08...kg/day [kilograms per day] 1.02..."

4. In the month of March 2009 the Respondent discharged wastewater with a 30-Day average CBOD concentration of 36.67 mg/L in violation of the permit.

5. In the month of October 2009 the Respondent discharged wastewater with a 30-Day average CBOD concentration of 41.25 mg/L in violation of the permit.

6. In the month of March 2010 the Respondent discharged wastewater with a 30-Day average CBOD concentration of 30.8 mg/L in violation of the permit.

7. In the month of July 2010 the Respondent discharged wastewater with a 30-Day average CBOD concentration of 75.5 mg/L in violation of the permit.

8. In the month of March 2009 the Respondent discharged wastewater with a 30-Day average ammonia concentration of 6.75 mg/L in violation of the permit.

9. In the month of October 2009 the Respondent discharged wastewater with a 30-Day average ammonia concentration of 11.87 mg/L and a 30-Day average ammonia mass of 2.15 kg/day in violation of the permit.

10. In the month of March 2010 the Respondent discharged wastewater with a 30-Day average ammonia concentration of 6.87 mg/L in violation of the permit.

11. In the month of July 2010 the Respondent discharged wastewater with a 30-Day average ammonia concentration of 3.75 mg/L and a 30-Day average ammonia mass of 3.19 kg/day in violation of the permit.

COMPLIANCE ORDER

12. IT IS THEREFORE ORDERED that the Respondent shall, on or before October 1, 2012, complete construction of its current wastewater facility upgrade in conformance with the construction permit issued February 15, 2011, and thereafter operate the same in full compliance with the applicable NPDES permit as the same may be revised from time to time.

WAIVER OF OPPORTUNITY TO REQUEST A HEARING

9. Pursuant to Neb. Rev. Stat. § 81-1507 (Reissue 2008) the Respondent has the right to apply for a hearing to contest a 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, provides sets forth the procedure of such hearings. Notwithstanding such rights, the Respondent agrees to the entry of this Order and the requirements imposed herein without contest and without further notice.

ADVISEMENT OF POSSIBLE PENALTIES

10. 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 day as set out in Neb. Rev. Stat. §81-1508.02 (Reissue 2008).

Dated: October 11 2011

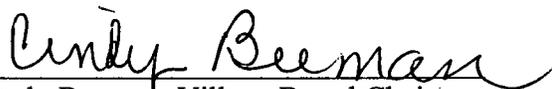
By:



Michael J. Linder, Director
Nebraska Department of
Environmental Quality

Dated: 10/7/11

By:



Cindy Beeman, Village Board Chairperson
Village of Lodgepole

AFFIDAVIT

STATE OF NEBRASKA | SS
COUNTY OF LANCASTER |

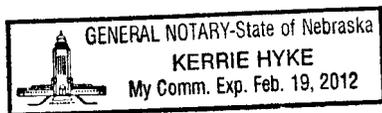
The undersigned oath deposes and says that on the 11th day of October, 2011, he caused an exact copy of the attached Complaint, Compliance Order on Consent, and Waiver of Opportunity for Hearing, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

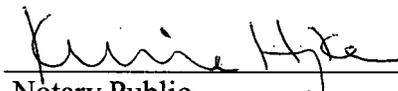
Cindy Beeman
Village of Lodgepole
PO Box 266
Lodgepole, Nebraska 69149



Timothy J. Doyle, affiant

Subscribed and sworn to before me, a Notary Public, on the 11th day of October, 2011.





Notary Public