

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF GRIESS TRUCK
WASH

Case No. 3494

FID # 110068
Respondent

CONSENT ORDER

I. INTRODUCTION

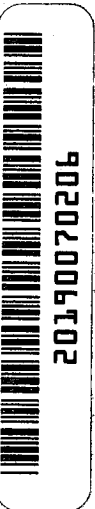
1. This Consent Order is issued pursuant to Neb. Rev. Stat. § 81-1507(1) of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 *et. seq.* (Reissue 2014; Cum. Supp. 2018) by James Macy, the Director of the Nebraska Department of Environment and Energy (NDEE or Department) to the Respondent, Griess Truck Wash, LLC.

II. JURISDICTION

2. At all times material herein, Respondent has owned and operated a livestock and commercial truck washing facility located near the Hwy 14 and I-80 interchange, south of Aurora in Hamilton County, Nebraska. The facility discharges livestock truck-trailer washout water through a collection system to a storage pond and then land applies the treated wastewater from the pond to agricultural fields located in the Big Blue River basin. The facility also discharges wastewater from commercial truck washing through a separate collection system to the City of Aurora municipal Wastewater Treatment Facility (WWTF).

3. The Department is the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. § 81-1504 (1) to administer and enforce NEPA and all rules, regulations and orders created thereunder.

4. Neb. Rev. Stat. § 81-1502 (20) defines water pollution to include the manmade or man-induced alteration of the chemical, physical, biological integrity of water.



5. Neb. Rev. Stat. §81-1506 (1)(a) makes it unlawful to cause pollution of any waters or land of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any land or waters.

6. Neb. Rev. Stat. §81-1506 (1)(b) makes it unlawful to discharge or emit any wastes into any waters or land of the state which reduce the quality of such waters or land below the standards established by the council.

7. Neb. Rev. Stat. § 81-1506 (2)(a) makes it unlawful to discharge any pollutant into the waters of the state without first obtaining a permit as required by the National Pollutant Discharge Elimination System (NPDES) created by the Clean Water Act, as amended 33 U.S.C. 1251 et seq. and by rules and regulations adopted and promulgated pursuant to Neb. Rev. Stat. § 81-1505.

8. Neb. Rev. Stat. § 81-1506 (2)(c) makes it unlawful to increase in volume or strength any waste in excess of permitted discharges specified under any existing permit.

9. Neb. Rev. Stat. § 81-1506 (2)(d) makes it unlawful to operate any facility if the operation would cause an increase in the discharge of wastes into the waters or land of the state or would cause an alteration of the physical, chemical, or biological properties of any waters or land of the state in a manner that is not lawfully authorized.

10. Pursuant to Neb. Rev. Stat. § 81-1504 and § 81-1505, the Nebraska Environmental Quality Council adopted rules and standards codified as Neb. Admin. Code Title 119 - *Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System*.

11. Title 119, Ch. 1, 027 defines land application as the controlled application of effluent onto the land surface to achieve a designed degree of treatment through natural, physical, chemical and biological processes within the plant-soil-water matrix.

12. On or about December 28, 2018, the Department issued Respondent NPDES Industrial / Nebraska Pretreatment Program Permit No. NE0139459 authorizing the discharge to the city of wastewater from commercial truck washing through a manhole identified as Outfall 001. The permit also authorizes the land application of the treated livestock wastewater effluent from the pond, which the permit identifies as Outfall 002. The NPDES permit for the land application of the treated wastewater contains requirements for a best management practices plan.

13. Respondent agrees not to contest the Department's jurisdiction to enforce this Consent Order in any subsequent enforcement proceedings, either administrative or judicial. The Respondent further agrees, without making any admissions to liability, to undertake all corrective actions required by and agreed to in this Consent Order.

III. COMPLAINT

14. Beginning on or about March 23, 2018, the Department began receiving complaints regarding the land application of the livestock washout wastewater from Respondent's facility including allegations of ponding and runoff in violation of Respondent's NPDES permit and Title 119.

15. On or about May 16, 2019, the Department issued Respondent a Notice of Violation (NOV) alleging that wastewater had been applied to saturated ground resulting in ponding and runoff and that Respondent had not submitted a best management practices plan in violation of permit conditions.

IV. SCHEDULE AND COMPLIANCE ORDER

16. By October 1, 2019, Respondent agrees to submit a Best Management Practices plan prepared by a professional agronomist or certified crop specialist for Department review and approval. The plan will provide procedures and practices Respondent will follow in order to adhere

to permit and Title 119 requirements for land application and will provide a schedule for implementing alternatives for times when soil conditions are not conducive to land application. Such alternatives may include, but are not necessarily limited to construction of an additional lagoon and/or obtaining city approval for the disposal of excess livestock wash water to the Aurora municipal WWTF.

17. Respondent agrees to implement the schedules, practices and procedures as outlined in the approved Best Management Practices plan by November 1, 2019.

18. Respondent agrees to respond in writing within seven (7) working days to all requests for information as requested by the Department to the following address or email:

Shelley Schneider, P.E.
Water Division administrator
Nebraska Department of Environment and Energy
P.O. Box 98922
Lincoln, Nebraska 68509-8922

or copies may be sent as an attachment via email to:
shelley.schneider@nebraska.gov

V. INJUNCTIVE RELIEF AND PENALTY PROVISIONS

19. The NDEE 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 Department from pursuing such enforcement.

20. 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.

VI. AMENDMENTS

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

VII. EFFECTIVE DATE

22. This Consent Order shall become effective on the date signed below by the Director of the Department or his designee.

VIII. SEVERABILITY

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

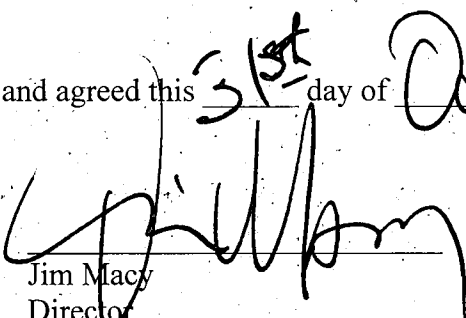
IX. SIGNATURES

For Respondent:



Date: 10 - 1 -, 2019.

For the Department: IT IS SO ORDERED and agreed this 31st day of October 2019.



Jim Macy
Director
Nebraska Department of Environment and Energy