

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF THE VILLAGE
OF TAYLOR, NEBRASKA

FID # 57847
Respondent

Case No. 3541

CONSENT ORDER

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (Department or NDEE) and the Respondent, Village of Taylor, Nebraska voluntarily enter into this Consent Order, which establishes the actions necessary for Respondent to come into compliance with the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. § 81-1501 *et. seq.*

II. JURISDICTION

2. At all times material herein, Respondent has owned and operated a Wastewater Treatment Facility (WWTF) used for the collection and treatment of municipal wastewater and consisting of a sewer system and a three-cell wastewater treatment lagoon. Respondent's lagoon discharges to the Taylor-Ord irrigation canal, which is a water of the state.

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 the Nebraska Environmental Protection Act and all rules, regulations and orders created thereunder.

4. Pursuant to Neb. Rev. Stat. § 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.*



5. In accordance with Title 119, the Department issued Respondent a National Pollutant Discharge Eliminations System (NPDES) permit containing numeric discharge limitations and monitoring and reporting requirements.

6. Pursuant to Neb. Rev. Stat. § 81-1505, the Nebraska Environmental Quality Council adopted rules and standards codified as Neb. Admin. Code Title 123 - *Rules and Regulations for The Design, Operation and Maintenance of Wastewater Works*.

7. Title 123, Ch. 11, 001 requires wastewater treatment facilities be maintained in proper operating condition and operated in a manner to meet all NPDES permit requirements and not result in a prohibited bypass or an unauthorized discharge. Title 123, Ch. 11, 002 requires that all wastewater works be operated by a competent operator who shall perform tests required by the Department and that records of such tests be maintained for three years.

8. Pursuant to Neb. Rev. Stat. § 81-15,130, the Nebraska Environmental Quality Council also adopted rules and standards codified as Neb. Admin. Code Title 197 - *Rules and Regulations for Certification of Wastewater Treatment Operators*.

9. Title 197, Ch. 2 requires that wastewater works be operated and maintained by a competent, designated operator, that the operator perform operational tests required by the Department and that records of all tests be kept for three years and made available to the Department.

10. 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

11. On or about March 26, 2018 the Respondent informed the Department of a breach of a lagoon wall due to possible overfilling. The Department followed up the complaint with a site inspection that verified the breach.

12. On or about September 18, 2020, the Department conducted a second site inspection of Respondent's lagoon system and subsequently issued a Letter of Noncompliance for failure to comply with the NPDES permit discharge limitations, failure to monitor effluent temperature and pH, failure to conduct annual influent sampling, failure to comply with reporting requirements and failure to have a certified operator. The letter requested Respondent to immediately begin permit required influent and effluent sampling, submit all noncompliance reports and submit a written report updating the progress made since a Pre-Engineering Report was submitted in 2019.

13. Failure to comply with NPDES permit conditions, including discharge limitations is a violation of Title 119, Ch. 14, 001.01 and Neb. Rev. Stat. § 81-1506(2)(c).

14. Allowing wastewater to overflow a lagoon system resulting in a breach is a violation of Title 123, Ch. 11, 001, Neb. Rev. Stat. § 81-1506(1)(b) and § 81-1508.02(1)(b).

15. Operation of a wastewater plant without a certified operator and failure to test and keep records is a violation of Title 123, Ch. 11, 002, Title 197, Ch. 2 and Neb. Rev. Stat. 81-1508.02(1)(b).

III. COMPLIANCE SCHEDULE

16. By January 1, 2022 submit an update to the Wastewater System Needs Report prepared for the Village of Taylor in 2018. The update to the 2018 report must be prepared by a Professional Engineer holding an active license under the Engineers and Architects Regulation

Act (Neb. Rev. Stat. § 81-3401 et seq.). The update to the 2018 report must include a timeline for any WWTF system upgrades, repairs, and/or any other corrective actions, such as land application, identified by the report.

17. By January 1, 2022, hire a certified wastewater operator in accordance with Title 197, Ch. 2 staffing requirements.

18. Respondent agrees to respond in writing within fourteen (14) working days to all requests for information as requested by the Department to the following address or email:

Reuel S Anderson
Supervisor – NPDES Compliance Section
Inspection and Compliance Division
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:
reuel.anderson@nebraska.gov

IV. RESERVATION OF RIGHTS AND PENALTY PROVISIONS

19. The Department reserves the right to require the Respondent to complete additional work or take additional actions as necessary to achieve compliance with all applicable laws and regulations. Further, the Department 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 Consent Order. Nothing in this Consent Order 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

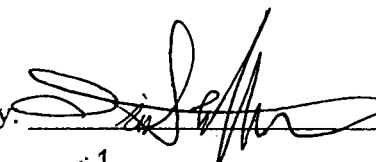
22. This Consent Order shall become effective on the date signed below by the Director of the Department or his designee.

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.

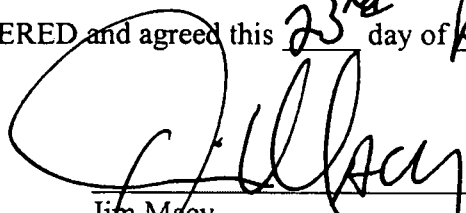
IX. SIGNATURES

For Respondents:

By:  _____
Title: Chairman _____
Date: 8-11-21 _____

For the Department:

IT IS SO ORDERED and agreed this 23rd day of August, 2021.

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Jim Macy
Director
Nebraska Department of Environment and Energy