

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF)	Case No. 3329
Richard A. Sargent,)	
and Richard C. Sargent)	COMPLAINT, COMPLIANCE ORDER
Lincoln County, Nebraska,)	AND NOTICE OF
FID #106363)	OPPORTUNITY FOR HEARING
)	
)	
Respondents.)	

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507(1) of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to 1532. The Complainant is Jim Macy, Director of the Nebraska Department of Environmental Quality (NDEQ). The Respondents are Richard C. Sargent, and his son Richard A. Sargent, both reside in Lincoln County, Nebraska. The Complaint below establishes the violations of the act.

COMPLAINT

2. NDEQ is the agency of the state of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1) & (4), of exercising exclusive general supervision, administration, and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to -1532, 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.

3. The Respondent Richard C. Sargent, and his son, Respondent Richard A. Sargent, own or operate property located in NE1/4 of Section 20-Township12- Range 29W and the SE1/4 of Section17- Township 12- Range 29W, Lincoln County, Nebraska. Said property is not a solid waste management



facility permitted by the Department and the Respondents do not have a permit to operate a solid waste management facility.

4. Neb. Rev. Stat. § 81-1502(10) defines Respondents as a "person."

5. Neb. Rev. Stat. § 13-2033(1) provides in pertinent part as follows: "...no person shall dump or deposit any solid waste at any place other than a landfill approved by the director unless the department has granted a permit which allows the dumping or depositing of solid waste at any other facility." Neb. Rev. Stat. § 81-1506(3) states that: "It shall be unlawful for any person to: ... (d) After October 1, 1993, dispose of any solid waste at a location other than a solid waste management facility holding a current permit issued by the department pursuant to the Integrated Solid Waste Management Act." Title 132, Integrated Solid Waste Management Regulations, Chapter 2, Section 001, prohibits operating a solid waste management facility without a permit.

6. On or about June 16, 2015 Respondents disposed or allowed to be disposed solid waste at the property described above which did not have a permit, contrary to Neb. Rev. Stat. §§ 13-2033 and 81-1506(3) and the Respondents were operating a solid waste disposal facility without a permit as required by Title 132, Chapter 2, Section 001.

7. The Director finds that Respondents have violated Neb. Rev. Stat. §§ 13-2033, 81-1506 (3) (d) and Title 132, Chapter 2, Section 001.

8. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. § 81-1504 (7) to issue this order requiring Respondents to cease unlawful disposal of solid waste.

COMPLIANCE ORDER

9. IT IS THEREFORE ORDERED that the Respondents shall perform the following activities within the time frames specified:

a. Within 15 days of receiving this Order, submit a plan to the Nebraska Department of Health and Human Services (DHHS) for identifying and properly disposing of any asbestos containing materials on Respondents' property.

b. The Respondents shall immediately cease disposal of solid wastes on their property and properly dispose of all solid waste at a permitted solid waste landfill, as follows:

1. 100 Dump truck loads by December 1, 2015.
2. 100 Dump truck loads between December 1, 2015- March 1, 2016.
3. 200 Dump truck loads between March 1, 2016 and June 1, 2016.
4. All remaining waste by August 1, 2016.

c. Respondents shall take all necessary precautions during storage, removal and transportation to minimize the spread of solid waste into the environment. Respondents shall send proof of proper disposal (scale tickets) to the Department at the beginning of each month for the previous month.

d. If during the cleanup if a suspect/unknown waste is found (e.g. drums or other containers with unknown liquids), work is to be stopped, and the Nebraska Department of Environmental Quality is to be contacted immediately by the Respondents for directions on how to test, handle, store and dispose of the waste.

10. All information to be submitted under this Order shall be sent to:

William C. Gidley
Waste Management Section Supervisor
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone number: (402) 471-2186

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

11. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondent(s) file an answer and request, in writing, a hearing no later than thirty days after receipt of this Order. Failure to answer

within thirty days shall be deemed an admission of the allegations of the Complaint.

12. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Neb. Admin. Code, Rules of Practice and Procedure, Chapter 7. The answer and request for hearing may be filed by mail to:

Jim Macy, Director
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922

or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

SETTLEMENT CONFERENCE

13. Whether or not Respondents request a hearing, an informal settlement conference may be requested by writing to Steve Moeller, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

14. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

INJUNCTIVE RELIEF AND PENALTY PROVISIONS

15. 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 violation, per day, as set out in Neb. Rev. Stat. § 81-1508.02.

8-17-15

Date



Jim Macy, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, with attachments, was served by certified United States mail, postage prepaid, return receipt requested this 18th day of August 2015 upon the Respondents listed below:

Richard C. Sargent, 105 N. Locust, P.O. Box 66, Brady Nebraska 69123
Richard A. Sargent, 8970 East Meadow Lawns Rd., North Platte, NE. 69101



Attorney