

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF)	Case No. 3111
Anthony Carter and Janet Carter,)	
Husband and Wife)	
530 Ravenwood Ct., Grand Island,)	
Hall County, Nebraska)	COMPLAINT, ORDER AND NOTICE
Onsite Wastewater Treatment System)	OF OPPORTUNITY FOR
F.I.D. # 97338)	HEARING
)	
Respondents)	

PRELIMINARY STATEMENT

This Complaint, Order, and Opportunity for Hearing is issued by the Director of the Department of Environmental Quality (herein after referred to as "Department" or "NDEQ") pursuant to Neb. Rev. Stat. §81-1507(1) of the Environmental Protection Act (Act), Neb. Rev. Stat. §81-1501 et seq. (Reissue 2008, Cum. Supp. 2010). The Respondents are Anthony Carter and Janet Carter, husband and wife. The Complaint below establishes the violations, the Order sets out what is required of the Respondents and the Notice of Hearing sets out how to ask for a hearing in this matter.

COMPLAINT

1. Respondents Anthony Carter and Janet Carter, husband and wife, are the owners of a dwelling on property located at 530 Ravenwood Ct., Grand Island, Hall County, Nebraska that has a septic system.

2. Pursuant to *Neb. Rev. Stat.* § 81-1508.02 (1) (e), it is unlawful for any person to violate any rule or regulation.

3. Title 124, *RULES AND REGULATIONS FOR THE DESIGN, OPERATION AND MAINTENANCE OF ON-SITE WASTEWATER TREATMENT*



SYSTEMS, Chapter 3, Section 004.03, states that the onsite wastewater treatment system shall be constructed according to the Department approved design. Further Title 124, Chapter 3, Section 004.04, states that the owner shall notify the Department of significant modifications to the approved design and obtain Department approval prior to changes being made in the system.

4. From July 2011 to the present, the Respondents have been operating their septic system which was not constructed to the Department approved and permitted design, and the owners failed to notify the Department of modifications to the design and failed to obtain Department approval prior to the system being put in place.

5. The Director finds that Respondents have violated Title 124, Chapter 3, Section 004.03 and 004.04 and *Neb. Rev. Stat. § 81-1508.02 (1) (e)*.

ORDER

IT IS HEREBY ORDERED THAT:

6. Respondents shall within 30 days of receiving this Order have an engineer submit revised drawings showing the as-built conditions of the onsite wastewater treatment system installed at 530 Ravenwood Crt, Grand Island, Nebraska.

7. If current system is not able to be approved by the Department, Respondents by May 1, 2012, shall complete construction or reconstruction of the onsite system in accordance with an approved design or any approved modifications to the design.

- a. Respondents shall within 30 days of completion of the construction/reconstruction, submit a Form J signed by the professional engineer who designed the system certifying that the construction is complete and has met all requirements of Title 124.
- b. Respondents shall within 45 days of completion of the construction or reconstruction, submit a Form G, system registration fee and any applicable late fee.
- c. Respondents shall allow NDEQ or its agents access to the property to verify compliance.

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

Steve Goans
Wastewater Section Supervisor
Water Quality Division
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone number (402) 471-2186

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

9. In accordance with *Neb. Rev. Stat. §81-1507(1)*, this Order shall become final unless the Respondents file an answer and requests a hearing in writing no later than 30 days after receipt of the Complaint, Compliance Order and Notice of Opportunity for Hearing.

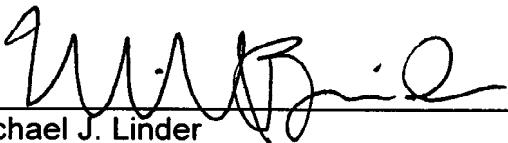
10. If the Respondents decide to contest this Order, a written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Chapter 7. The answer and request for

hearing must be filed with the Director, Department of Environmental Quality,
P.O. BOX 98922, Lincoln, Nebraska 68509-8922.

11. Failure to answer shall be deemed an admission of the facts of the Complaint. Violation of this Order may result in penalties of up to \$10,000 per day.

12. This Complaint, Compliance, Order and Notice of Opportunity for Hearing does not preclude the Department of Environmental Quality from pursuing enforcement in the proper court for injunctive relief and penalties based on violations of state statutes or regulations.

Dated this 21st day of December, 2011.



Michael J. Linder
Director
Department of Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Emergency Complaint and Order was served by certified United States mail, postage prepaid, return receipt requested this 22nd day of December 2011 upon the Respondent listed below:

Anthony and Janet Carter
530 Ravenwood Crt.
Grand Island, NE 68801

Steven J. Moeller

Steven J. Moeller
Staff Attorney