

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF)
)
MRN Properties, LLC,) Case No. 3571
)
PWS Permit Number NE3111103,) CONSENT ORDER
Facility ID 84454;)
)
Respondent.)
)

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (NDEE, or Department) and MRN Properties, LLC (Respondent), voluntarily enter into this Consent Order.

2. This Consent Order establishes a schedule for Respondent to comply with the Nebraska Safe Drinking Water Act (NSDWA), Neb. Rev. Stat. §§ 71-5301 to 71-5313, *et seq.*, Neb. Admin. Code Title 179 (Title 179), *Regulations Governing Public Water Systems*, the Uniform Standard Code for Mobile Home Parks (USCMHP), Neb. Rev. Stat. §§ 81-15,278 to 81-15,291, and Neb. Admin. Code Title 178 (Title 178), *Rules and Regulations Relating to Mobile Home Parks in the State of Nebraska*.

II. JURISDICTION

3. Pursuant to Neb. Rev. Stat. § 71-5304.01 the NDEE Director may issue an administrative order to a permittee alleged to be in violation of any provision of the NSDWA or any rule or regulation promulgated under such act requiring necessary corrective action to be taken.

4. Pursuant to Neb. Rev. Stat. § 71-5303, the NDEE Director may issue administrative orders scheduling action to be taken to obtain compliance with the NSDWA.

5. Respondent admits to the Department's jurisdiction over the subject matter of this Consent Order. Respondent waives its right to a hearing under the Administrative Procedure Act,



§ 84-901 et seq. Respondent agrees not to contest the basis or validity of the Administrative Order issued September 14, 2021, or the Department's jurisdiction to enforce this Consent Order in any proceedings, either administrative or judicial. The Respondent further agrees to undertake all corrective actions required by and agreed to in this Consent Order.

III. PARTIES

6. The parties to this Consent Order are the Nebraska Department of Environment and Energy and the Respondent, MRN Properties, LLC, and their employees, successors, and assigns. This Consent Order is binding on NDEE and on the Respondent and all successors and assigns. Respondent shall ensure that all contractors hired to perform work required by this Consent Order are informed of applicable requirements.

IV. FINDINGS OF FACT

7. At all times material herein, Respondent has owned and operated a public water system (PWS) as defined by Neb. Rev. Stat. § 71-5301(10), located in Lincoln County, Nebraska. The physical address of the PWS is 4004 West 14th Street, North Platte, NE 69101.

8. The PWS exceeded the maximum contaminant level (MCL) for uranium found in Title 179, 2-002.04D4.

9. On November 3, 2019, Respondent entered into a Point-of-use/Point-of-entry Compliance Agreement which required, among other things, Respondent to install and maintain POE/POU treatment devices which are certified for the removal of uranium.

10. On March 4, 2022, Respondent informed the Department that Respondent is not ensuring that every service connection to the PWS is being served by a POU treatment device.

11. On June 4, 2021, NDEE discovered a new public water supply well was constructed and placed into service without the Director's approval.

12. On September 14, 2021, NDEE issued an Administrative Order to Respondent for violations of the NSDWA and Title 179.

13. Neb. Rev. Stat. § 71-5305 and Title 179, 7-003, require plans and specifications for all major construction, extension, or alteration to public water systems to be prepared by a Nebraska registered engineer and submitted to the Director for review and written approval prior to the beginning of construction.

14. Title 179, 7-009.1, provides that no part of a public water system falling within the definition of major construction shall be placed in service prior to certification by the engineer, a final inspection by the department, and issuance of approval by the Director.

15. Neb. Rev. Stat. § 81-15,283 states “No person shall construct, expand, remodel, or make alterations to the sanitary facilities in a mobile home park within this state without first obtaining a permit therefor from the department [...]. The application for such permit shall be made to the department in such manner as may be prescribed by regulations of the department, which shall require the applicant to supply plans and specifications and otherwise provide a description of the nature, type, location, and extent of the sanitary facilities contemplated.”

16. Title 178, 5-003, provides that each application for a permit to construct, expand, remodel or make alterations to the sanitary facilities in a mobile home park must be accompanied by plans and specifications, include a description of the nature, type, location and extent of the proposed construction, expansion, remodeling and alterations to the sanitary facilities and must be prepared by an engineer or architect if the mobile home park has fifteen or more mobile homes.

17. The construction of a new public water supply well and the placement of that well into service is a violation of the NSDWA, the USCMHP, Title 179, and Title 178.

18. The Department and Respondent agree that settlement of this matter is in the public interest to protect health, safety, and the environment and to ensure compliance with state laws and regulations.

V. COMPLIANCE ORDER AND SCHEDULE

19. Respondent agrees to divide the mobile home park located at 4004 West 14th Street, North Platte, NE 69101, and deed away roughly half of the property to a third party according to the schedule presented in this section.

20. Respondent agrees to apply for and obtain any permits as required by the Uniform Standard Code for Mobile Home Parks and Title 178.

21. By December 31, 2022, Respondent agrees to drill a new well, constructed in accordance with NAC Title 178, to a depth similar to well G-191822.

22. Within 20 days of the completion of the well described in Paragraph 21, Respondent agrees to decommission and abandon wells G-109463 and G-109462 in accordance with NAC Title 178 and ensure that the water supply from well G-191822 and the water supply from the well described in Paragraph 21 are not connected or combined. Well G-191822 and the well described in Paragraph 21 are to each have fewer than 15 service connections and are not to serve an average of at least 25 individuals daily at least 60 days per year.

23. Within 20 days of the completion of the work described in Paragraph 22, Respondent agrees to deed approximately half of the mobile home park subject to this order, including one of the wells described in Paragraph 21 and the mobile home lots serviced by that well as described in Paragraph 22 to a third party.

24. Prior to division of the mobile home park, Respondent agrees to notify each resident of the park that, upon the transfer of half of the property, the water system will no longer be regulated as a public water system. Respondent agrees to post notice, containing Department

approved language, describing the change in water system classification in a prominent place for a period of no less than one month.

25. Respondent agrees to submit annual testing of well G-191822 for uranium, nitrate, E. coli, and coliform, for a period of five years beginning in 2023, in accordance with the procedures included with Department provided test kits.

26. Respondent agrees to notify the Department upon completion of each of the conditions in Paragraphs 21 through 24 and to respond in writing within seven (7) working days to all requests for information as requested by the Department.

27. Respondent agrees to send any documentation or response to requests for information to the following address or email:

Laura Johnson
Environmental Manager
Drinking Water & Groundwater 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:
laura.r.johnson@nebraska.gov

VI. SATISFACTION AND COMPLIANCE WITH OTHER LAWS

28. Respondent shall perform all actions required by this Consent Order in accordance with all applicable local, state, and federal laws, regulations and permits.

29. Respondent's compliance with this Consent Order and satisfactory completion of the requirements in Paragraphs 19 through 26 will satisfy the Administrative Order issued on September 14, 2021, and the requirements contained therein.

VII. RESERVATION OF RIGHTS

30. Nothing in this Consent Order shall be construed to limit the power and authority of the NDEE or State of Nebraska to take or order any action necessary to protect public health,

welfare, or the environment or to enforce any provision of NSDWA, USCMHP, and any rules, regulations, orders, or permits issued pursuant to NSDWA and USCMHP.

VIII. NEGATION OF AGENCY RELATIONSHIP

31. Nothing in this Consent Order shall be construed to create, either expressly, or by implication, the relationship of agency between NDEE and Respondent.

IX. AMENDMENT

32. This Consent Order may be modified and amended in writing by mutual agreement of NDEE and Respondent.

X. EFFECTIVE DATE

33. This Consent Order shall become effective on the date it is signed by the NDEE Director or his designee.

XI. SEVERABILITY

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

XII. SIGNATURES

35. For Respondent: The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind the Respondent.

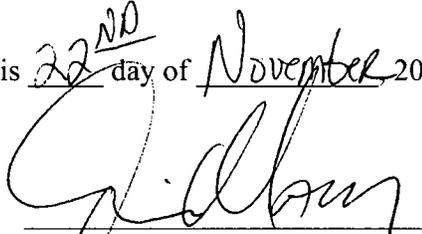
By: Mike Nehde

Title: member

Date: 11-11-22

35. For NDEE:

IT IS SO ORDERED and agreed this 22ND day of November 2022.

A handwritten signature in black ink, appearing to read "Jim Macy", written over a horizontal line.

Jim Macy
Director

Nebraska Department of Environment and Energy