

BEFORE THE DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF

MICHAEL C. STEC
FID: 36739

Respondent.

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Case No. 3620

CONSENT ORDER

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (“Department”) and Michael C. Stec (“Respondent”), voluntarily enter into this Consent Order. The Consent Order establishes a Compliance Schedule for Respondent to comply with the Nebraska Environmental Protection Act (“NEPA”), Neb. Rev. Stat. §§ 81-1501 to 81-1532, the Integrated Solid Waste Management Act (“ISWMA”), Neb. Rev. Stat. §§ 13-2001 to 13-2043, the Nebraska Environmental Response Act (“NERA”), Neb. Rev. Stat. §§ 81-15,301 to 81-15,311, and Title 132 of the Nebraska Administrative Code (“NAC”) – *Integrated Solid Waste Management Regulations*.

2. The Department and Respondent agree that settlement of this matter is in the public interest to ensure compliance with state laws, rules, and regulations, adopted and issued to protect the environment.

II. JURISDICTION

3. The Department is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1), of exercising exclusive general supervision, administration, and enforcement of the NEPA, the ISWMA, and Title 132.

4. The Department may issue orders requiring a responsible person to take specific actions when a release under the NERA has occurred pursuant to Neb. Rev. Stat. §§ 81-15,301 to



81-15,311, including corrective actions as may be reasonably required to prevent recurrence of a release.

5. In signing this Consent Order, Respondent agrees to undertake all actions required by this Consent Order. Respondent agrees not to contest the jurisdictional allegations referenced herein in any action to enforce this Consent Order. Respondent waives its rights to further hearing as provided in Neb. Rev. Stat. § 81-1507 and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901 *et seq.*

III. PARTIES

6. The parties to this Consent Order are the Department and Respondent, a natural person. This Consent Order is binding on the Department, Respondent, and any successors and assigns of the parties. Respondent shall ensure that all contractors hired to perform work required by this Consent Order are informed of applicable requirements.

7. The Respondent is a person as defined in Neb. Rev. Stat. § 81-1502(10).

IV. FINDINGS OF FACT

8. At all times relevant, Respondent had access to three neighboring parcels of real property (collectively, “the Property”) located in Platte County, Nebraska, and legally described as follows:

- a. Parcel #1: The Northeast Quarter, the Southeast Quarter of the Northwest Quarter, and the East Half of the Southwest Quarter, all in Section Twenty-One, Township Seventeen North, Range Three, West of the 6th Principal Meridian;
- b. Parcel #2: The West Half of the Southwest Quarter in Section Fifteen, Township Seventeen North, Range Three, West of the 6th Principal Meridian; and

c. Parcel #3: Lots Eight and Nine in Section Sixteen, Township Seventeen North, Range Three, West of the 6th Principal Meridian.

9. The Loup River constitutes the north border of the Property.

10. On or about June 6, 2023, the Department received a Notification of Environmental Concern (“NEC”) related to suspected burying of scrap or waste tires on the Property.

11. On or about July 5, 2023, the Department conducted an inspection (“July 5 Inspection”) of the Property to investigate the concerns raised in the NEC.

12. During the July 5 Inspection, the Department inspectors observed and documented:

- a. The presence of buried and unburied waste tires upon the land of the Property;
- b. That waste tires had been placed into the water of a pit/pond wholly located on the Property;
- c. The absence of any measures to minimize risks to public health and welfare caused by disease-carrying insects and rodents;
- d. That waste tires had been placed on the banks of the Loup River without being bonded together with a non-corrodible connector; and
- e. That at least one tire was floating in the waters of the Loup River.

13. Waste tires are known to not stay buried and “float” to the top of the surface medium within which they are buried, thereby becoming exposed.

14. Waste tires stored outdoors in a manner that permits the collection of rainwater in the inner liner of the tire are also known to become vectors for disease-carrying insects and rodents.

15. Whole waste tires are also known to be a fire hazard because, once ignited, tire fires are incredibly difficult to extinguish and control.

16. The Nebraska State Fire Marshal recognizes the risks associated with outdoor storage of scrap tires, including the generation of black smoke, the proximity of the tires to buildings, and contamination of the surrounding area. *See* 153 NAC 18-001.

17. The disposal of scrap and waste tires onto the land and into the waters of the state constitutes a “release,” as defined in Neb. Rev. Stat. § 81-15,302(8).

FIRST CAUSE OF ACTION

18. Between November 10, 2022, and July 5, 2023, both dates being approximate and inclusive, Respondent caused pollution of the land and water of the state by burying scrap and waste tires upon the Property and by placing scrap and waste tires onto the bank of the Loup River without ensuring such tires were securely fastened to prevent their dislodgment into the river, all in violation of Neb. Rev. Stat. § 81-1506(1)(a).

SECOND CAUSE OF ACTION

19. Between November 10, 2022, and the date of this Consent Order, both dates being approximate and inclusive, Respondent unlawfully operated, and continues to operate, a solid waste management facility by maintaining scrap and waste tires upon the Property without first obtaining a permit required under the Environmental Protection Act or under the Integrated Solid Waste Management Act and a rule and regulation adopted and promulgated by the Environmental Quality Council (“Council”) pursuant to the acts, all in violation of Neb. Rev. Stat. § 81-1506(3)(a). *See* Neb. Rev. Stat. § 13-2033 and 132 NAC 2-001.

THIRD CAUSE OF ACTION

20. Between November 10, 2022, and July 5, 2023, both dates being approximate and inclusive, Respondent violated a rule or regulation adopted and promulgated by the Council pursuant to the Environmental Protection Act or the Integrated Solid Waste Management Act by

disposing recyclable waste tires upon the land of the Property, all in violation of Neb. Rev. Stat. § 81-1506(3)(c). See 132 NAC 14-001.

FOURTH CAUSE OF ACTION

21. Between November 10, 2022, and July 5, 2023, both dates being approximate and inclusive, Respondent violated a rule or regulation adopted and promulgated by the Council pursuant to the Environmental Protection Act or the Integrated Solid Waste Management Act by accumulating and storing waste tires without providing measures to minimize the risks to the public health and welfare caused by disease-carrying insects and rodents, all in violation of Neb. Rev. Stat. § 81-1506(3)(c). See 132 NAC 14-002.01.

FIFTH CAUSE OF ACTION

22. Between November 10, 2022, and July 5, 2023, both dates being approximate and inclusive, Respondent disposed of a 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 by disposing of scrap and waste tires upon the land of the Property after October 1, 1993, all in violation of Neb. Rev. Stat. § 81-1506(3)(d).

SIXTH CAUSE OF ACTION

23. Between November 10, 2022, and July 5, 2023, both dates being approximate and inclusive, Respondent violated a rule or regulation (132 NAC 14-007) adopted and promulgated by the Council pursuant to the Environmental Protection Act or the Integrated Solid Waste Management Act by engaging in the business of picking up, hauling, and transporting tires for accumulation without first obtaining a permit, all in violation of Neb. Rev. Stat. § 81-1506(3)(c). See Neb. Rev. Stat. § 13-2033(3) and 132 NAC 14-007.

V. COMPLIANCE SCHEDULE

24. In compliance with Neb. Rev. Stat. § 81-15,304(1), Respondent agrees to remove all scrap and waste tires from the Property. Respondent will:

- a. Immediately stop hauling scrap and waste tires to the Property;
- b. Immediately stop disposing of scrap and waste tires on the Property;
- c. Beginning April 2024, and continuing for each and every month thereafter:
 - i. “Cleanup,” as that term is defined in Neb. Rev. Stat. § 81-15,302, and remove one ton of scrap and waste tires from the Property and properly dispose of the same at a licensed solid waste management facility authorized to accept scrap and waste tires;
 - ii. Submit to the Department no later than the tenth day of the following month documentation substantiating the fact the actions required under ¶ 24(c)(i) have been performed during the previous month;
 - iii. For ease of reference, the following table identifies the requirements of ¶¶ 24(c)(i) and 24(c)(ii); and

Tires Taken to Waste Facility In . . .	Must Have Documentation Submitted By . . .
January	February 10
February	March 10
March	April 10
April	May 10
May	June 10
June	July 10
July	August 10
August	September 10
September	October 10
October	November 10
November	December 10
December	January 10

- d. In the event the final load of waste or scrap tires Respondent removes from the Property is less than one ton, the one ton minimum weight requirement prescribed in ¶ 24(c)(i) shall not apply to such final load.

25. The Respondent shall notify the Department when the final load of scrap tires has been properly removed from the Property. The Department will then conduct an inspection of the Property to verify compliance with this Order.

26. Submissions to the Department under this Order shall refer to FID 36739 and shall be sent to Brett M. Anderson, Environmental Specialist, Waste Compliance Section, Inspection and Compliance Division, Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, NE 68509-8922.

VI. SATISFACTION AND COMPLIANCE WITH OTHER LAWS

27. Respondent agrees to perform all actions required in this Consent Order in accordance with all applicable local, state, and federal laws, regulations, and permits.

VII. RESERVATION OF RIGHTS

28. Nothing in this Consent Order shall be construed to limit the power and authority of the Department to take or order any action necessary to protect the public health, the public welfare, or the environment or to enforce any provision of the NEPA, the ISWMA, the NERA, or any rules, regulations, orders, or permits, issued pursuant to the NEPA, ISWMA, or NERA. The Department reserves the right to pursue any other remedies to which it is entitled for violations of this Consent Order or the underlying violations alleged herein, including penalties or injunctive relief.

VIII. NEGATION OF AGENCY RELATIONSHIP

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

IX. AMENDMENTS

30. This Consent Order may be amended upon the mutual written agreement of the Department and the Respondent.

X. EFFECTIVE DATE

31. This Consent Order shall become effective on the date the Director of the Department or the Director's designee signs the Consent Order.

XI. TERMINATION

32. Upon completion of the Compliance Schedule, Respondent will be notified by NDEE in writing that the Compliance Schedule has been completed and the present administrative case is closed. Such notification shall be issued within 90 days of the Department determining that the terms of the Compliance Schedule have been met.

XII. SEVERABILITY

33. If any provision or authority of this Consent Order or the application of this Agreement 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 Agreement shall remain in force and shall not be affected thereby.

XIII. SIGNATURES

34. For Respondent: The undersigned certifies that the undersigned possesses actual authority to enter into this Consent Order on behalf of Respondent and to bind Respondent.

[Signatures appear on next page.]

Signature: Michael Ste...

Date: 3-16-24

35. For the Department:

IT IS SO ORDERED and agreed this 25th day of March, 2024.



JIM MACY
DIRECTOR
NEBRASKA DEPARTMENT OF
ENVIRONMENT AND ENERGY