



Operating Permit, the approved application and in Title 130, *Livestock Waste Control Regulations*.

(B) On October 13, 2015 Respondent, Nathan A. Pesta, P.E. signed and sealed a Certification of Completion Form for construction completed for a Synthetic-Lined Feed Storage Pond and Cleanwater Diversion 2 as specified in a May 26, 2015 approved application and that all construction conditions for Phase 1D had been met as identified in the Construction and Operating Permit, the approved application and in Title 130, *Livestock Waste Control Regulations*.

(C) On October 22, 2015 Respondent, Nathan A. Pesta, P.E. signed and sealed a Certification of Completion Form for construction completed for Concrete Storage Pits: Cell 1A and 1B and Cleanwater Diversion 3 as specified in a May 26, 2015 approved application and that all construction conditions for Phase 1A had been met as identified in the Construction and Operating Permit, the approved application and in Title 130, *Livestock Waste Control Regulations*.

(D) On November 5, 2015 the Nebraska Department of Environmental Quality conducted a post construction inspection pursuant to the Construction and Operating Permit and found Cleanwater Diversions 3 and 4 were not constructed as described. Furthermore, approval was not sought nor granted for a permanent lift station/recirculating pump for Cell 2 or a pipe installed connecting the Feed Storage Pond to Cell 2. Finally, approval was not received nor granted for a fresh water flush system from the Sargent Canal.

(E) On March 10, 2016, the Nebraska Department of Environmental Quality provided Notice of Violation regarding the actions set forth in paragraph 4(A) through 4(D). The actions

set forth in paragraph 4(A) through 4(D) constitute violations of the Nebraska Environmental Protection Act, Neb.Rev.Stat. §81-1508.02(c) (Reissue 2014).

(F) The actions of Respondent, Nathan A. Pesta constitute violations of the Engineers and Architect Regulation Act; Neb.Rev.Stat. §§81-3434 and 81-3442 (Reissue 2014), and Neb.Admin.Code, Title 110, Chapter 5 (5.1.1), (5.1.2) and (5.5.4).

5. Following investigation of the above matters, the Board determined that the actions of Respondent, Nathan A. Pesta, P.E. violated the statutes and regulations referenced in paragraph 4(F) of this Settlement Agreement.

6. Respondent acknowledges the Board's investigation and admits fault on the allegations regarding failure to obtain approval but denies other allegations. In an effort to resolve this matter without further formal proceedings, Respondent agrees to enter into this Settlement Agreement.

7. In the event there are any further violations of Nebraska statutes or regulations, the parties agree that the Settlement Agreement will not be construed as a legal admission by Respondent of a violation of law or regulation, except for the limited purpose as referenced in this Agreement.

8. Respondent is entitled to formal process, including a hearing as provided by law. However, the Board and the Respondent have agreed by way of this Settlement Agreement to resolve this matter, without formal process, including a formal hearing. Respondent hereby waives his right to any hearing or procedure provided by law and further waives his right to review any order entered by the Board prior to an entry of final order in this case.

9. The Board agrees it will not file a formal action against Respondent, except if necessary to enforce the terms of this Settlement Agreement, if Respondent complies with the Settlement Agreement, including the following terms:

(A) Within thirty (30) days of approval of this Settlement Agreement, Respondent will pay One Thousand Dollars (\$1,000) constituting an administrative penalty with respect to the violations alleged: and

(B) Respondent agrees to comply with all provisions of Nebraska law and regulations which govern the activities of licensed professional engineers in the State of Nebraska.

10. Respondent voluntarily agrees to the terms of this Settlement Agreement.

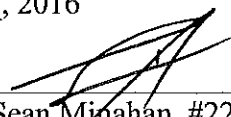
11. Respondent agrees and understands that if he is found to violate any other or separate provision of Nebraska law or regulation which govern the activities of licensed professional engineers in the State of Nebraska within a period of five (5) years of executing this Settlement Agreement, the Board may consider matters referenced in this Settlement Agreement in imposing any subsequent penalty against Respondent for separate offenses.

12. Respondent agrees and understands that if he does not comply in all respects with the terms of this Settlement Agreement the Board is entitled to pursue all other remedies allowed pursuant to Nebraska law and regulations, including a separate proceeding brought against the Respondent with respect to the violations alleged in the complaint.

13. The parties agree and understand this Settlement Agreement is not binding unless and until it is accepted and approved by the Board.

Dated this 9 day of September, 2016

By:

  
Sean Minahan, #22342  
Special Assistant Attorney General  
Nebraska Board of Engineers and Architects

By: Nathan Pesta  
Nathan A. Pesta, P.E.

BOARD APPROVAL

The foregoing Settlement Agreement, having been signed and executed by the Respondent, as well as the attorney for the Board in this particular matter, has been reviewed by the members of the Nebraska Board of Engineers and Architects, and by virtue of the signature below, this Settlement Agreement is approved by the Board.

Dated this 9th day of September, 2016

By: Krista Kester  
As Chairman, Nebraska Board of Engineers  
and Architects.

