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5-22-12

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF THE  
APPLICATION OF JERRY F. KENNY ON BEHALF OF THE  
PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM  
DATED MARCH 1, 2012.

Case No. 3130  
ORDER OF VARIANCE

NOW this matter came before the Director on the application of Jerry F. Kenny on behalf of the Platte River Recovery Implementation Program, an association created by cooperative agreement of states, seeking an order of variance from Title 117, Chapters 3, and 4, Nebraska Surface Water Quality Standards, to authorize placement of 100,000 tons of sediment in the Platte River near Overton in each of two years, 2012 and 2013.

The proposed project is part of a pilot study to gain understanding of the means and methods for full-scale sediment augmentation using sand pumps and earth-moving vehicles. Two locations are to be used as sediment introduction sites: the Cook Tract/Dyer Property and the Cottonwood Ranch, also described as Sections 10 and 11, Township 8 North, Range 20 West, Phelps County and Sections 3, 4, 10, and 11, Township 8 North, Range 19 West, Dawson County.

The material that is proposed for introduced sediment is alluvial sand from the Platte River banks and is essentially the same material that forms the river's bed. There is abundant material of this nature near the application sites that is very low in organic content, clay, and silt. The project sites are remote and minimally developed. The project involves human intervention to introduce material that is normally and naturally in transit in the river bed. The objective of the project is a better understanding of sediment transport to benefit future intervention on behalf of threatened and endangered species in an efficient manner recognizing the variety of uses of the river. The closest downstream municipal use of surface water, or groundwater under the influence of surface water, from either site is the city of Kearney located downstream 21.5 miles, which has groundwater wells.

The director finds that the discharges authorized with the limitations herein will not endanger or tend to endanger human health and safety.

IT IS THEREFORE ORDERED that the applicant may discharge sand at either or both of two specific locations, the Cook Tract/Dyer Property and the Cottonwood Ranch, in an amount not to exceed 100,000 tons at each location, and to occur in each of the years 2012 and 2013, PROVIDED that the following conditions are met:

1. The introduced material shall be sands that do not exceed 5% clays, silts and organic matter.. No introduced material shall be taken from a site of known contamination of soil or groundwater.

2. The applicant shall on a weekly basis in weeks when sediment application occurs and not less than one hour but not more than 2 hours after commencing introduction of sediment monitor the dissolved oxygen and pH content of the main river channel at a point downstream from each injection location, whether by earthmoving vehicle or pipe, not more distant than 5,000 feet and not less distant than 250 feet. The results of this monitoring shall be reported in writing to NDEQ within 15 days of analysis.

3. An observation shall be made on each day that sediment introduction occurs. The observation shall occur downstream along the flow of the river at a point not more than 5,000 feet distant, and not less than 250 feet distant. Any dead fish in excess of normal daily mortality shall be reported immediately to NDEQ. Apart from reports associated with fish kills the observations shall be reported to NDEQ in writing recording at a minimum: perception of turbidity, presence or absence of foam, and perceived color, and any other conditions. The observations shall be reported to NDEQ along with the next to occur report of dissolved oxygen and pH.

IT IS FURTHER ORDERED that this Order of Variance shall terminate and expire on January 1, 2014, or upon further order of the Director, whichever occurs first.

Dated this 21<sup>st</sup> day of May, 2012.

  
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Michael J. Linder, Director,  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

AFFIDAVIT

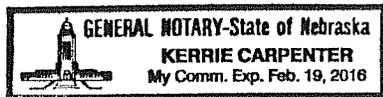
STATE OF NEBRASKA | SS  
COUNTY OF LANCASTER |

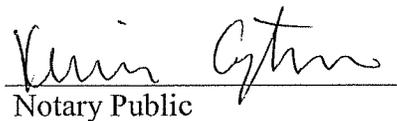
The undersigned oath deposes and says that on the 21<sup>st</sup> day of May 2012, he caused an exact copy of the attached Order of Variance, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

Jerry F. Kenny  
Executive Director  
Platte River Recovery Implementation Program  
4111 4<sup>th</sup> Avenue, Suite 6  
Kearney, Nebraska 68847

  
Timothy J. Doyle, affiant

Subscribed and sworn to before me, a Notary Public, on the 21<sup>st</sup> day of May, 2012.



  
Notary Public