

From: McNally Law Office leagle@mcnallylaw.net  
Subject: Fertilizer Storage  
Date: November 19, 2020 at 10:29 AM  
To: zoning@dodgecone.us  
Cc: Clerk clerk@scribner-ne.gov

Jean,

As City Attorney for Scribner I am concerned about the odor coming from the storage of fertilizer near the Scribner Airport. The latest correspondence I received was that they were going to an odor evaluation. Has that been done? I can't believe that your zoning regulations don't have something about an activity creating an odor nuisance. The city Council is concerned and upset about the odor.

Jim McNally  
Scribner City Attorney



**COPY**

**DODGE COUNTY  
BUILDING INSPECTION & ZONING DEPARTMENT**

**JEAN ANDREWS, Zoning Administrator  
Flood Plain Manager**

Courthouse - 435 N. Park, Room 204  
Fremont, Nebraska 68025  
Phone: (402) 727-2724

October 20, 2020

 COPY

~~James J. McNally  
McNally Law Office  
P.O. Box 164  
Neligh, NE 68756-0164~~

Good Day:

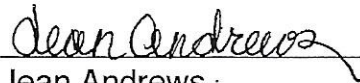
The Dodge County Zoning Department has sent certified letters to two landowners that were storing the material you spoke of in your complaint letter and later in a letter dated September 22, 2020.

I received a reply from Nate Hansen with Environmental Land Management LLC that has been leasing the land from the landowners, Donald Witte and John Havekost and is enclosed. As you can see by the letter, they do not state they will discontinue storing the material. I am not sure that Dodge County can stop them at this point.

I will be giving County Attorney, Oliver Glass, a copy of all correspondence that I have received regarding this complaint to see where we can go from here.

If you have any questions or comments, please feel free to contact this office.

Thank you.



Jean Andrews,  
Dodge County Zoning Administrator

Cc: Dodge County Attorney  
Dodge County Board of Supervisors

# MCNALLY LAW OFFICE

1008 S STREET P.O. BOX 164  
NELIGH, NE 68756-0164  
PHONE 402-887-5022 FAX 402-887-5592

JAMES J. MCNALLY  
leagle@mcnallylaw.net

OF COUNSEL:  
M. LYNNE MCNALLY  
lynneschuller@hotmail.com

JOSEPH F. MCNALLY  
joe@mcnallylaw.net

September 22, 2020

Jean Andrews  
Dodge County Zoning Administrator  
435 N. Park  
Fremont, NE 68024

Re: Nuisance Complaint

Ms. Andrews,

The Mayor and Council of Scribner will be meeting Monday evening the 28<sup>th</sup> of September and I'm sure they will be asking about the storage of nuisance material adjacent to the Scribner Airport Property. Have you any information that I can convey to them in regard to this matter. Apparently, a number of residents have complained of the odor.

With best wishes, I am.

Respectfully yours,



James J. McNally

JJMc/dd

cc: Mayor/Council

2020 SEP 25 AM 11:42  
RECEIVED  
Dodge Co Highway Dept



**ENVIRONMENTAL  
LAND MANAGEMENT LLC**

*waste byproduct landspreading specialists*

1602 11th DR. NE  
Austin, MN 55912

tel. 800.758.5050  
cell. 651.261.4139  
fax 877.231.3149  
[natehansen@landspread.com](mailto:natehansen@landspread.com)  
[www.landspread.com](http://www.landspread.com)

October 6th, 2020

Jean Andrews  
Zoning Administrator  
Dodge County Zoning Department  
435 North Park, Room 204  
Fremont, Nebraska 68025

2020 OCT 16 AM 9:34  
RECEIVED  
Dodge County Highway Dept

Dear Ms. Andrews,

Environmental Land Management leases agricultural land from Donald Witte and John Havekost to stockpile soil conditioner and fertilizer food byproducts. In response to your letter to Donald Witte and John Havekost, dated September 28th, 2020; I have enclosed the following documents:

- Soil Conditioner and Fertilizer Management Plan
- NDEE NPDES 2020 Permit Requirements for Land Application of Biosolids
- NDOA Fertilizer License
- NDOA Soil Conditioner and Fertilizer Labels
- Byproduct Delivery Records for Biomass, Gypsum, and Perlite at Site 650

We use an internal numbering system to identify our land application and stockpile sites. Your letter addresses gypsum stockpiling on Parcel ID #270114961, located near Scribner, NE in Section 16, Township 9N, Range 7E, which is labeled by Environmental Land Management as "Site 650". As of September 30th, 2020 there are 33,757.78 tons of Gypsum, 23,300.42 tons of Biomass, and 6926.61 tons of Perlite stockpiled in calendar year 2020 at Site 650 (all tonnage calculations are "as received" tons). As of September 30th, 2020 we have hauled out 5,424 tons for land application. Site 650 (241 Acres Spreadable), as well as neighboring Site 905 (529 Acres Spreadable) and Site 852 (399 Acres Spreadable), are all NDEE Permitted Sites.

Our land application season typically runs from October 15th-April 30th. At our agronomist recommended rate of 4 tons "as received" per acre we estimate, weather permitting, the current stockpile amount of 33,757.78 tons of Gypsum should be completely land applied in 35-43 working days.

In response to the odor complaint we will be conducting an odor study within the next few weeks using a Nasal Ranger Field Olfactometer. This will provide quantifiable measurements of any odors that may be coming off Site 650 at various distances. Our study will also include odor measurements that may be coming off commonplace agricultural practices, such as cattle feed production, livestock farming, and livestock manure storage.

We share the same goal of land applying all the byproducts stockpiled at Site 650 as soon as possible. For the past few years we have stockpiled various byproducts at Site 650 with the intention that all byproducts, weather permitting, will be land applied in the same calendar year. Over the past few years we have had success in diverting soil conditioner and fertilizer food byproducts from ending up as solid waste in a landfill. Recycling valuable soil conditioners and fertilizers has resulted in many local farmers saving on fertilizer costs at a time when every dollar counts.

If you should have any questions or concerns please do not hesitate to contact me. As always I am more than happy to provide information when it is requested.

Sincerely,

Nate Hansen  
Director, Environmental Land Management, LLC

Enclosures

**DODGE COUNTY**  
**BUILDING INSPECTION & ZONING DEPARTMENT**

**JEAN ANDREWS, Zoning Administrator**  
**Flood Plain Manager**

Courthouse - 435 N. Park, Room 204  
Fremont, Nebraska 68025  
Phone: (402) 727-2724

September 28, 2020

Donald Witte  
746 County Rd. 12 Blvd.  
Scribner, NE 68057

**CERTIFIED MAIL**

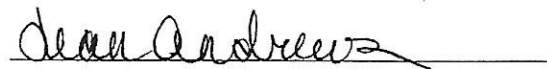
Good Day:

The Dodge County Zoning Department has received a complaint regarding the unsightly smell coming from the stock pile of Gypsum that has been hauled and stored at property owned by you located at Parcel Nos. 270114996 in Section 17, Township 19 North, Range 7 East and Parcel No. 270114961 in Section 16, Township 19 North, Range 7 East all in Everett Township. I have enclosed a copy of a Resolution adopted back in 2000 by the Dodge County Board of Supervisors that particularly states that Dodge County can enforce rules preventing the introduction or spread of contagious, infectious or malignant diseases; to provide rules for the prevention, abatement and spread of nuisances, including the pollution of air and water.

This letter serves as notice that continuing to stock pile and store this material is in violation of this Resolution. Please be advised the removal of this material must be accomplished by December 1, 2020.

If you have any questions or comments, please feel free to contact this office.

Thank you.

  
Jean Andrews,  
Dodge County Zoning Administrator

Cc: Dodge County Attorney  
Dodge County Board of Supervisors

**DODGE COUNTY**  
**BUILDING INSPECTION & ZONING DEPARTMENT**

**JEAN ANDREWS, Zoning Administrator**  
**Flood Plain Manager**

Courthouse – 435 N. Park, Room 204  
Fremont, Nebraska 68025  
Phone: (402) 727-2724

September 28, 2020

John Havekost  
1111 County Rd. I  
Scribner, NE 68057

**CERTIFIED MAIL**

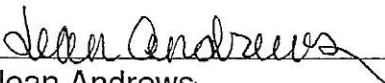
Good Day:

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Thank you.

  
\_\_\_\_\_  
Jean Andrews,  
Dodge County Zoning Administrator

Cc: Dodge County Attorney  
Dodge County Board of Supervisors

**DODGE COUNTY**  
**BUILDING INSPECTION & ZONING DEPARTMENT**

**JEAN ANDREWS, Zoning Administrator**  
**Flood Plain Manager**

Courthouse – 435 N. Park, Room 204  
Fremont, Nebraska 68025  
Phone: (402) 727-2724

September 22, 2020

John Havekost  
675 County Road 12 Blvd.  
Scribner, NE 68057

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Jean Andrews,  
Dodge County Zoning Administrator

Cc: Dodge County Attorney  
Dodge County Board of Supervisors



**DODGE COUNTY**  
**BUILDING INSPECTION & ZONING DEPARTMENT**

**JEAN ANDREWS, Zoning Administrator**  
**Flood Plain Manager**

Courthouse – 435 N. Park, Room 204  
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Phone: (402) 727-2724

September 22, 2020

Donald Witte  
746 County Rd. 12 Blvd.  
Scribner, NE 68057

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Thank you.

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Jean Andrews,  
Dodge County Zoning Administrator

Cc: Dodge County Attorney  
Dodge County Board of Supervisors

7  
**RESOLUTION No. Res 2000-001**

of

**THE DODGE COUNTY BOARD OF SUPERVISORS**

A RESOLUTION CREATING REGULATIONS TO PROMOTE PUBLIC HEALTH, SAFETY AND WELFARE, AND PROVIDE RULES FOR THE PREVENTION, ABATEMENT AND REMOVAL OF NUISANCES IN THE COUNTY OF DODGE, NEBRASKA UNDER AUTHORITY GRANTED BY THE STATE OF NEBRASKA IN THE NEBRASKA REVISE STATUTES SECTION 23-174.10.

WHEREAS: The Nebraska Revised Statutes Section 23-174.10 authorizes the County Board of any county that has adopted zoning to make regulations as may be necessary or expedient to promote the public health, safety and welfare, including regulations to prevent the introduction or spread of contagious, infectious, or malignant diseases; to provide rules for the prevention, abatement and removal of nuisances, including the pollution of air and water, and make and prescribe regulations for the construction, location, and keeping in order of all slaughter houses, stockyards, warehouses, sheds, stable barns, commercial feedlots, dairies, junk and salvage yards, or other places where offensive matter is kept, or is likely to accumulate;

WHEREAS: The County Board of Dodge, Nebraska has adopted zoning and subdivision regulations and intends to exercise the authority granted to it under NRSS 23-174.10;

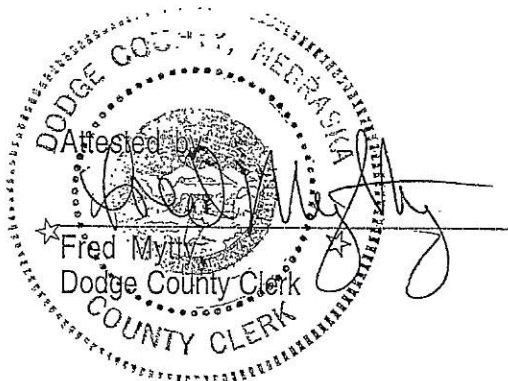
NOW THEREFORE, BE IT RESOLVED, by the Board of Supervisors of Dodge, County, Nebraska, that;

The most current revision of the Dodge County Zoning and Subdivision Regulations is hereby adopted as the means by which the Dodge County Board shall exercise the authority granted to it under NRSS 23-174.10. This regulation is to be considered amended at the same time as subsequent amendments are made to the Dodge County Zoning and Subdivision Regulations.

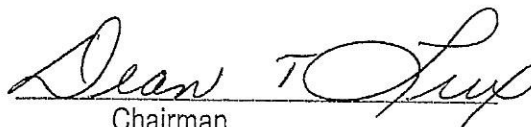
All of the land uses and building types listed in 23-174.10 which are in compliance with the Dodge County Zoning and Subdivision Regulations are to be considered in compliance with this resolution. Any land use or building type listed in 23-174.10 which is not in compliance with the Dodge County Zoning and Subdivision Regulations shall be considered to be in non-compliance with this resolution.

Enforcement of this regulation shall be provided by the Dodge County Planning and Zoning Administrator.

ADOPTED by the Dodge County Board of Supervisors on this 11 day of January, 2000.



BOARD OF SUPERVISORS  
DODGE COUNTY, NEBRASKA

  
Chairman  
Dodge County Board of Supervisors

# MCNALLY LAW OFFICE

1008 S STREET P.O. BOX 164  
NELIGH, NE 68756-0164  
PHONE 402-887-5022 FAX 402-887-5592

OF COUNSEL:

JAMES J. McNALLY  
leagle@mcnallylaw.net

M. LYNNE McNALLY  
lynneschuller@hotmail.com

JOSEPH F. McNALLY  
joe@mcnallylaw.net

September 8, 2020

Jean Andrews  
Dodge County Zoning Administrator  
435 N. Park  
Fremont, NE 68024

Re: Nuisance Complaint

Ms. Andrews,

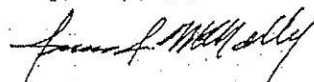
I represent the City of Scribner, Nebraska and the Mayor and Council have asked me to contact you in regard to a rather "smelly" problem that the city is experiencing due to the piling of a by-product of ethanal production near the Scribner Airport. It is my understanding that the material can be used on farmland as fertilizer. It is also my understanding that the company had previously stored such material on land in Washington County near Ft. Calhoun, and that the zoning authorities required them to move such storage out of Washington County. The storage of such material is on property owned by Donald Witte and John Havekost on Section 17, Township 19, Range 7 East of the 6<sup>th</sup> P.M., Dodge County, Nebraska.

The by-product material is located just North of the Scribner Airport, and when a south wind blows it carries the smell over the City of Scribner. The area is beyond the City of Scribner zoning jurisdiction.

It appears that this area is within your county zoning jurisdiction, and I am inquiring whether your zoning regulations control this type of situation. I would appreciate it if you would review the matter and let me know of possible remedies so that I may so inform the Mayor and City Council.

Thanking you in advance for your assistance, I am,

Respectfully yours,



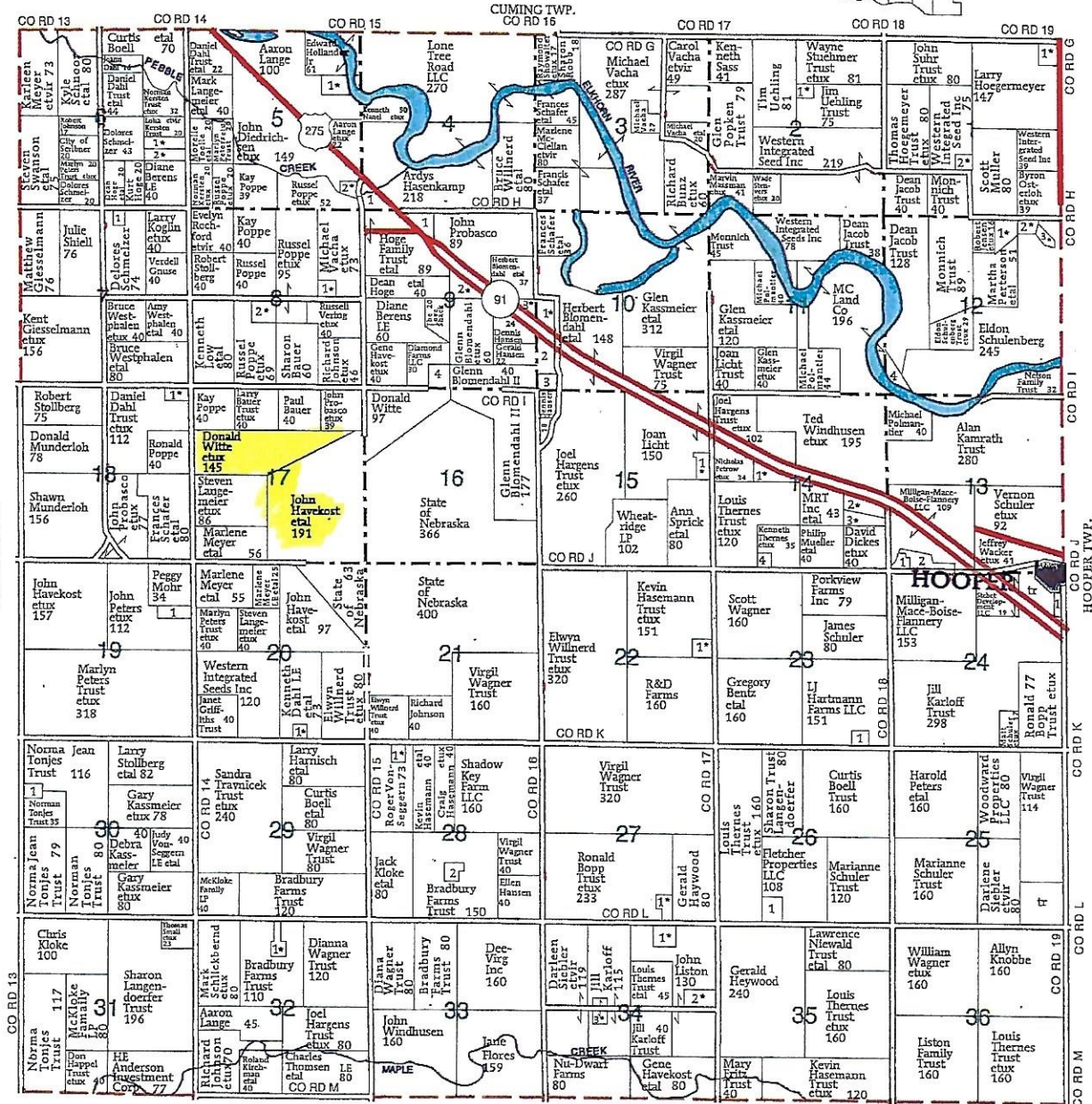
James J. McNally  
JJMc/dd  
cc: Mayor/Council

2020 SEP 10 AM 11:33  
RECEIVED  
Dodge County Highway Dept.

T-19-N

EVERETT PLAT.

R-7-E



MAPLE TWP.

**EVERETT TOWNSHIP**

**SECTION 1**

1. Schole, Nathan et ux 10
2. Freudenburg, Gregory et ux 5

**SECTION 2**

1. Uehling Trust, Jim et ux 5

**SECTION 4**

1. Hoge Family Trust 6

**SECTION 5**

1. Winburn, Lynn et ux 14
2. Breeling, Jshon et al 6

**SECTION 6**

1. Dahl Trust, Daniel et ux 10
2. Swanson, Michael et al 10

**SECTION 7**

1. Hoge, Dean 6

**SECTION 8**

1. Pfeiffer, Lavern et ux 7
2. Manderson, Phillip et al 11

**SECTION 9**

1. Hasenkamp, Ardys 13
2. Hansen, Gerald et al 17
3. Lange, Aaron et al 6

**SECTION 10**

1. Witte, Donald 10
1. Lange, Aaron et ux 13
2. Hansen, Gerald 14
3. Hansen, Dennis 7

**SECTION 12**

1. Wellman, Edwin et ux 10

**SECTION 14**

2. Hussey, Tony et ux 5
3. Smith, Lon et ux 6
4. MC Land Co 10

**SECTION 13**

1. Milligan, Michael 5
2. Milligan Farms 12

**SECTION 14**

1. Thernes Trust, Sharon et ux 10
2. Milligan, Clark et al 11
3. Waters, Billie et al 10

**SECTION 15**

4. Bronson, Sally 5

**SECTION 17**

1. Licht, Scott et ux 13

**SECTION 18**

1. Niewohner, Tamara et al 8

**SECTION 19**

1. Bronte Holding IV LLC 14

**SECTION 20**

1. Stout, Tracy et ux 7

**SECTION 22**

1. Nemeec, Rudie et ux 10

**SECTION 23**

1. Thernes, Tyler 9

**SECTION 24**

1. Kisner, Dianna 6

**SECTION 26**

1. Andrews, Marvin 12

**SECTION 27**

1. Cassell, Leonard et ux 7

**SECTION 28**

1. Lynn, Rebecca et ux 8

**SECTION 30**

1. Johnson, Shawn 8

**SECTION 32**

1. Dodge, Stacey et al 10

**SECTION 34**

1. Ten Kley, Jeremy et ux 11

**SECTION 35**

2. Spagnotti, William et ux 11

**SECTION 36**

3. Ruether, Glenville et ux 5

