

IN THE DISTRICT COURT OF BUFFALO COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director,)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)

Case No. _____

Plaintiff,)

v.)

COMPLAINT

JANET M. SLEGGERS, an individual,)
WOOD RIVER DAIRY, L.L.C., a)
Nebraska limited liability company, and)
ASPEN DAIRY, a Nebraska general)
partnership,)

Defendants.)

COMES NOW the Nebraska Department of Environmental Quality (hereinafter the "Department" or "Plaintiff"), who institutes this action through Jon Bruning, Attorney General, and alleges and states as follows:

FIRST CLAIM

1. Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to NEB. REV. STAT. § 81-1504(1) (Reissue 2008, Cum. Supp. 2010) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, NEB. REV. STAT. § 81-1501 (Reissue 2008, Cum. Supp. 2010) *et seq.* and the Livestock Waste Management Act, NEB. REV. STAT. § 54-2416 (Reissue 2008, Cum. Supp. 2010) *et seq.*, along with all rules and regulations promulgated thereunder.

2. At all times material herein, Defendant Janet M. Slegers owned or operated an animal feeding operation located in Buffalo County, Nebraska. Defendant Aspen Dairy, a Nebraska general partnership, also owned or operated this animal feeding operation located in Buffalo



County, Nebraska, from 1998 to the present. Defendant Wood River Dairy, L.L.C., also owned or operated this animal feeding operation from August 3, 2006 to the present.

3. The Nebraska Environmental Quality Council has authority to adopt rules for handling livestock waste, and the Council has adopted, pursuant to § 81-1504 (1) such a rule and regulation: Title 130, *Livestock Waste Control Regulations*.

4. Title 130, Chapter 2, Section 008.02, states that any person who owns or operates an animal feeding operation shall not allow or cause a discharge.

5. Pursuant to NEB. REV. STAT. § 81-1506 (5)(d) it is unlawful for any person to violate any rules or regulations adopted by the Council.

6. On or about February 29, 2012, Defendants allowed or caused a discharge of livestock waste to the waters of the State.

7. Pursuant to NEB. REV. STAT. § 81-1508.02 (1) and (2) a civil penalty is provided in the amount of not more than \$10,000 (Ten thousand dollars) for each day of violation, and in the case of a continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

8. Plaintiff hereby incorporates by reference each and every allegation contained in its First Claim.

9. Title 130, Chapter 2, Section 010, requires any person who owns or operates an animal feeding operation to report any discharge or manure, litter or process wastewater to the Department within 24 hours of the event.

10. On or about March 1, 2012, Defendants failed to report the discharge event to the Department within 24 hours of the event.

THIRD CLAIM

11. Plaintiff hereby incorporates by reference each and every allegation contained in its First and Second Claims

12. NEB. REV. STAT. § 81-1508.02 (1)(b) makes it unlawful for any person to violate any orders of the Department's Director.

13. On or about March 1, 2012, Defendants violated a Consent Order entered into with the Department on April 13, 2010, in which Defendants agreed that Defendants were to remain in compliance with "all applicable provisions of the Livestock Waste Management Act, NEPA and Title 130" for a period of two years.

FOURTH CLAIM

14. Plaintiff hereby incorporates by reference each and every allegation contained in its First, Second, and Third Claims.

15. The Department's Director, pursuant to NEB. REV. STAT. § 81-1508 (2) (Reissue 2008), asks the Court for an injunction enjoining Defendants from any further discharges to waters of the state during the pendency of this legal action and further enjoining Defendants from placing waste in any location where the wastes are likely to cause pollution of any air, waters or land of the state.

WHEREFORE, Plaintiff prays that judgment be entered in favor of Plaintiff and against Defendants in the form of civil penalties as provided under NEB. REV. STAT. § 81-1508.02 (Reissue 2008, Cum. Supp. 2012), and that an injunction be entered and that all costs of this action be taxed to Defendants.

Respectfully submitted this 27th day of March, 2013.

STATE OF NEBRASKA, ex rel.,
MICHAEL J. LINDER, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

By: JON BRUNING, #20351
Attorney General of Nebraska

By: 
David A. Lopez, #24947
Assistant Attorney General

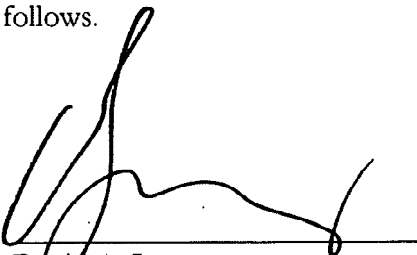
2115 State Capitol
Lincoln, Nebraska 68509-8920
(402) 471-3882
dave.lopez@nebraska.gov

Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served on Defendant by regular United States mail, first class postage prepaid on March 27, 2013, addressed to the Defendant's attorney of record as follows.

Stephen D. Mossman, Esq.
Mattson Ricketts Davies Stewart & Calkins
134 South 13th Street, Suite 1200
Lincoln, NE 68508


David A. Lopez
Assistant Attorney General