

IN THE DISTRICT COURT FOR PLATTE COUNTY, NEBRASKA

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

Plaintiff,

v.

BECTON DICKINSON AND COMPANY,

Defendant.

Case No. CI13-510

COMPLAINT

RECEIVED
CLERK OF DISTRICT COURT
PLATTE COUNTY, NEBRASKA

2013 NOV -6 AM 9:01

FILED

The Nebraska Department of Environmental Quality ("Department"), through counsel, alleges the following:

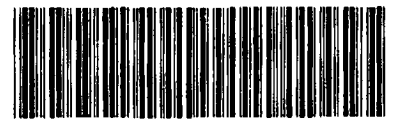
1. The Department is the agency of the State of Nebraska charged with the duty to administer and enforce the provisions of the Nebraska Environmental Protection Act, NEB. REV. STAT. §§ 81- 1501 *et seq.* (Reissue 2008), along with all rules and regulations promulgated thereunder.

2. Becton Dickinson and Company ("BD") is a New Jersey Corporation operating a medical supply manufacturing facility in Columbus, Nebraska.

3. At all times material herein, BD's Columbus facility has been subject to the terms of Air Quality Class I Operating Permit #OP07S1-007 ("Permit"), which incorporates the requirements of 40 C.F.R. Part 63 Subpart Mmmm.

4. A civil penalty is provided for the violation of any Department regulation or term of the Permit. See, NEB. REV. STAT. §§ 81-1506(4); 81-1508.02.

5. On or about April 6, 2010, Department personnel conducted a routine compliance inspection at BD's Columbus facility. See generally, Neb. Admin. Code Title 129 "Air Quality Regulations".



000116895D10

6. BD failed to calculate a 12-month rolling average for the Facility Specific Emission Limit. See, 129 Neb. Admin. Code § 28-001.81; Operating Permit, Section III.(A)(3)(e)

7. BD failed to conduct daily monitoring of, and recordkeeping concerning, the operation of the emissions capture system ("ECS") between September 25, 2008 and April 6, 2010. See, 129 Neb. Admin. Code § 28-001.81; Operating Permit, Section III. (A)(4).

8. BD failed to conduct quarterly accuracy audits of, and recordkeeping concerning, the operation of the ECS between September 25, 2008 and April 6, 2010. See, 129 Neb. Admin. Code § 28-001.81; Operating Permit Section III. (A)(4)(e)(iii).

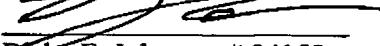
9. BD failed to operate, and keep record of, the continuous parameter monitoring system for the ECS between September 25, 2008 and April 6, 2010. See, 129 Neb. Admin. Code. § 28-001.81; Operating Permit Section III. (A)(4)(g) & (h).

10. BD failed to keep records demonstrating continuous compliance with the Work Practice Plan between September 25, 2008 and April 6, 2010. See, 129 Neb. Admin. Code. § 28-001.81; Operating Permit Section III. (A)(5)(b).

The Department respectfully requests that the Court enter judgment against Becton Dickinson and Company in the form of a civil penalty along with the costs of this action.

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

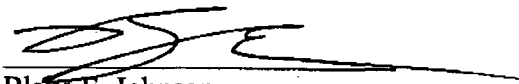
By JON C. BRUNING, #20351
Attorney General

By 
Blake E. Johnson, # 24158
Assistant Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-2682
blake.johnson@nebraska.gov
Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon Defendant by regular United States mail, first class postage prepaid on this 4th day of November, 2013, addressed to the Defendant's attorney of record as follows:

Michael S. Mostek
Koley Jessen P.C., L.L.O
One Pacific Place, Ste. 800
1125 South 103rd Street
Omaha, Nebraska 68124


Blake E. Johnson