

IN THE DISTRICT COURT OF LINCOLN COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director, )  
NEBRASKA DEPARTMENT OF )  
ENVIRONMENTAL QUALITY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
EmmaJean Myers, a/k/a E. Jean Myers, a/k/a )  
EmmaJean Fackler, a/k/a E. Jean Fackler )  
 )  
Defendant. )

Case No. CE 12-544

**FILED**  
~~12:30 PM~~  
AUG 06 2012

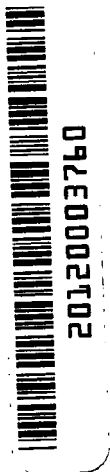
*Debra McCarthy*  
CLERK OF DISTRICT COURT

COMPLAINT and  
REQUEST FOR INJUNCTION

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ), alleges the following:

FIRST CLAIM

1. The Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504 (1) (Reissue 2008) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 2008 and Supp. 2009) *et seq.*
2. At all times material herein the Defendant EmmaJean Myers, a/k/a E. Jean Myers, a/k/a EmmaJean Fackler, a/k/a E. Jean Fackler, owned a home with an on-site wastewater system located at 708 Genesco Avenue, Wellfleet, Lincoln County, Nebraska.
3. On or about October 1, 2009, Plaintiff issued a Compliant, Compliance Order and Notice of Opportunity for Hearing, ordering Defendant to (paragraph 6):
  - a. Immediately eliminate the discharge of wastewater to the ground surface. All work done on the septic system shall be performed by a certified professional.



- b. By November 1, 2009, submit in writing to the Department what actions were taken to cease the discharge of wastewater and a schedule, not to exceed 45 days for completion of work to be performed, to provide for long term management of wastewater being generated.
- c. By December 15, 2009, construct, alter, or modify the wastewater system so that it complies with the design requirements of Title 124 and provides for the long term management of wastewater.
- d. Respondent shall allow NDEQ or its agents access to the property to verify compliance.

4. A hearing on the Order was not requested and the Order became a final order. Defendant did not perform items (a) through (d) above.

5. Neb. Rev. Stat. §81-1508.02 (1) (b) makes it unlawful for any person to “violate...any order of the director.”

6. Plaintiff requests the Court enter an injunction pursuant to Neb. Rev. Stat. §81-1508 (2) enjoining the Defendant from any further violations of the Director’s Order and to have them come into compliance with those requirements in the Order as soon as possible.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendant enjoining the Defendant from any further violations of the Director’s Order and to have them come into compliance with those requirements in the Order as soon as possible and further that all costs of this action be taxed to the Defendant.

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

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Attorneys for Plaintiff.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon the Defendant by regular United States mail, first class postage prepaid on this 1 day of August, 2012 addressed to the Defendant's attorney of record as follows:

Jeffrey M. Eastman  
Legal Aid of Nebraska  
102 E. 3<sup>rd</sup> Street, Suite 102  
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Ryan Post  
Ryan S. Post  
Assistant Attorney General