

IN THE DISTRICT COURT OF DAWSON COUNTY, NEBRASKA

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

Case No. _____

Plaintiff,)

v.)

COMPLAINT

GOTHENBURG FEED PRODUCTS)
COMPANY)

Defendant.)

COMES NOW Michael J. Linder, Director of the Department of Environmental Quality, who institutes this action through, Jon C. Bruning, Attorney General, on behalf of the State of Nebraska as Plaintiff and alleges as follows:

I. FIRST CAUSE OF ACTION

1. The Plaintiff, the Nebraska Department of Environmental Quality (hereinafter "NDEQ"), is at all times material herein the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504 (Reissue 2008) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2008) and all rules, regulations, orders, and permits issued thereunder.

2. The Defendant, Gothenburg Feed Products is a company authorized to do business in Nebraska. The Defendant owns and operates an alfalfa dehydration plant in Dawson County, Nebraska.

3. Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2008) is in effect at all times material herein and states that it is unlawful to violate any regulations promulgated under the Environmental Protection Act. Pursuant to Neb. Rev. Stat. § 81-1505 (Reissue 2008, Cum. Supp.



2012), the Nebraska Environmental Quality Council adopted the *Nebraska Air Quality Regulations*, promulgated at Title 129 of the Nebraska Administrative Code, which is in effect at all times material herein.

4. Title 129, Chapter 20 of the Nebraska Administrative Code provides in pertinent part that:

005 No person shall cause or allow emissions, from any source, which are of an opacity equal to or greater than twenty percent (20%), as evaluated by an EPA-approved method... except as provided for in section 006 of this chapter.

006.02 No person shall cause or allow emissions from any existing alfalfa dehydration plant dryer which are of an opacity equal to or greater than thirty percent (30%).

5. On or about December 7, 2011, January 23, 2012, and October 29, 2012, Defendant caused and allowed emissions from its alfalfa dehydration plant dryer to exceed the 30 percent opacity standard as evaluated by the EPA approved Method 9.

6. Pursuant to Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2008) it shall be unlawful for any person to violate a rule and regulation adopted and promulgated under the Environmental Protection Act.

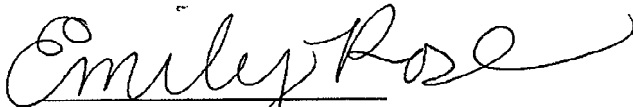
7. Pursuant to Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2008), a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day per violation is provided in cases of violation of the Environmental Protection Act and any rules or regulations adopted and promulgated pursuant to such act.

WHEREFORE, the Plaintiff prays that judgment on its claim be entered herein against the Defendant in the form of a civil penalty as provided under § 81-1508.02 together with the costs of the action.

Respectfully submitted this 28 day of August, 2013

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

By JON C. BRUNING, #20351
Attorney General

By: 

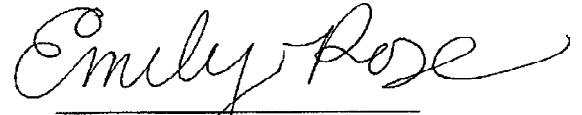
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served on the Defendant by regular United States mail, first class postage prepaid on this 28 day of August, 2013, addressed to the Defendant as follows:

Gothenburg Feed Products, Inc.
Chris Healey
1413 2nd Avenue
Gothenburg, Nebraska 69138



Emily K. Rose
Assistant Attorney General