

IN THE DISTRICT COURT OF PIERCE COUNTY, NEBRASKA

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

Plaintiff,

v.

DON HUWALDT, an individual

Defendant.

Case No. _____

COMPLAINT

COMES NOW the Nebraska Department of Environmental Quality (hereinafter the "NDEQ" 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. 2012) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, NEB. REV. STAT. § 81-1501 (Reissue 2008, Cum. Supp. 2010) *et seq.*, along with all rules and regulations promulgated thereunder.
2. At all times material herein Defendant Don Huwaldt was the owner of a truck wash located one mile east of Osmond on Highway 20, Pierce County, Nebraska. The legal description for the property is the NW 1/4 of the NE 1/4, Section 32, Township 28 North, Range 2 West, Pierce County, Nebraska.



3. Pursuant to NEB. REV. STAT. § 81-1506(2)(b) it is unlawful for any person to construct, install, modify or operate disposal system without obtaining the necessary permits from NDEQ.
4. Prior to February 2010 and continuing through to the present time, Defendant operated a disposal system at the above described truck was without obtaining the necessary permit(s) from NDEQ.
5. Pursuant to NEB. REV. STAT. § 81-1508.02 (2) a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each day of violation. In case of a continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

6. Plaintiff hereby incorporates by reference each and every allegation contained in its First Claim.
7. On or about June 24, 2011, Plaintiff and Defendant agreed to a Consent Order requiring Defendant to (paragraph 10):
 - ...d. If Respondent has not completed construction of an approved wastewater facility by February 1, 2012, then Respondent shall immediately close and not operate the truck wash until construction is completed.
8. A hearing on the Order was not requested and the Order became a final Order. Defendant did not comply with any requirements as set out above.
9. NEB. REV. STAT. § 81-1508.02(1)(b) makes it unlawful for any person to “violate . . . any orders of the director.”
10. Pursuant to NEB. REV. STAT. §81-1508.02(1)(b) and (2), where there has been a violation of an order of the Director, a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each day of violation.

THIRD CLAIM

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

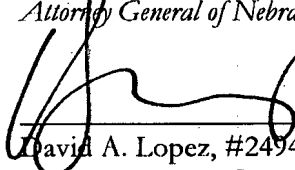
12. Plaintiff, pursuant to NEB. REV. STAT. § 81-1508(2), asks the Court for an injunction enjoining the Defendant from continued operation of the truck wash until Defendant complies with all requirements of the statutes, regulations, and consent order.

WHEREFORE, Plaintiff prays that judgment be entered in favor of Plaintiff and against Defendant in the form of civil penalties as provided in NEB. REV. STAT. § 81-1508.02 (2), and injunction be entered and that all costs of this action be taxed to Defendant.

Respectfully submitted this 25th 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

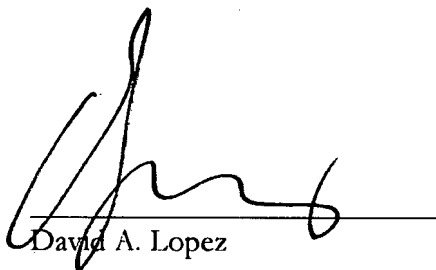
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Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon Defendant by regular United States mail, first class postage prepaid on March 25, 2013, addressed to Defendant's attorney as follows:

Jeffrey C. Jarecki, Esq.
Jarecki Law, P.C., L.L.O.
P.O. Box 106
Albion, NE 68620



David A. Lopez