

IN THE DISTRICT COURT FOR STANTON COUNTY, NEBRASKA

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

Case No. CI 11-5

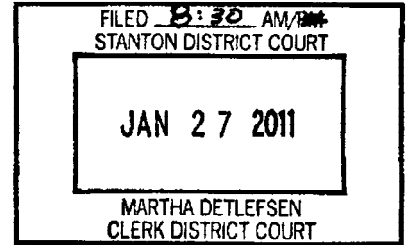
COMPLAINT

Plaintiff,)

v.)

OFF ROAD RANCH, LLC,)

Defendant.)



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

I. FIRST CAUSE OF ACTION

1. NDEQ is the agency of the State of Nebraska charged with the duty, under 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 et seq. (Reissue 1999, Cum. Supp. 2006, and Supp. 2007), and all rules and regulations promulgated that Act, including Title 124 of the Nebraska Administrative Code ("Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment Systems").

2. Off Road Ranch, LLC, is a Nebraska limited liability company. At all relevant times, Off Road Ranch owned and operated a recreational vehicle and trailer park in Stanton County, Nebraska.



3. Under 124 Neb. Admin. Code, chapter 2, § 001, “a dwelling or establishment that generates wastewater shall have an on-site wastewater system in accordance with these regulations or be connected to a wastewater works.” In addition, 124 Neb. Admin. Code, chapter 2, § 003 provides that “an on-site wastewater system installed on or after the effective date of these regulations shall meet all requirements of this Title.”

4. Under 124 Neb. Admin. Code, chapter 1, § 057, an on-site wastewater system is defined as “any system of piping, treatment devices, or other appurtenances that convey, store, treat, or dispose of domestic or non-domestic wastewater...on the property where it originates, or on nearby property under the control of the user, which system is not connected to a public sewer system.”

5. Under 124 Neb. Admin. Code, chapter 2, § 007.03 a discharge of wastewater is prohibited “to the land surface from a dwelling, establishment, building sewer, or on-site wastewater system without Department approval.”

6. From July 2009 to November 2009, Off Road Ranch discharged wastewater from its on-site wastewater system at its recreational vehicle and trailer park to the surface of the ground in Stanton County, Nebraska without NDEQ approval.

7. Under Neb. Rev. Stat. § 81-1506(5), it is unlawful for any person to violate and rule or regulation adopted and promulgated under the Environmental Protection. Under Neb. Rev. Stat. § 81-1508.02 (Reissue 2008), each violation of §

81-1506 subjects a person to a civil penalty of no more than \$10,000 per day. In the case of a continuing violation, each day is a separate offense.

II. SECOND CAUSE OF ACTION

8. The State incorporates by reference the allegations contained in each of the paragraphs above.

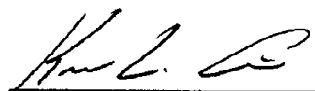
9. 124 Neb. Admin. Code, chapter 3, § 008.03 prohibits the operation of an on-site wastewater system if “the system was constructed without a construction permit and did not meet the requirements for authorization by rule to construct without a construction permit.”

10. From July 2009 to November 2009, Off Road Ranch operated its on-site wastewater system without having received a construction permit or meeting the requirements for authorization by rule to construct without such a permit.

WHEREFORE, the State prays that judgment be entered in its favor and against Off Road Ranch in the form of civil penalties as provided in Neb. Rev. Stat. § 81-1508.02 and that all costs of this action be taxed to Off Road Ranch.

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

By JON C. BRUNING, #20351
Attorney General

By 
Kevin L. Griess, #22182
Assistant Attorney General

2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-2682
kevin.griess@nebraska.gov
Attorneys for Plaintiff