

IN THE DISTRICT COURT OF DODGE COUNTY, NEBRASKA

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

Plaintiff, )

v. )

GARY KROENKE, LOU KROENKE )  
FARM, INC. D/B/A KROENKE )  
FARMS, INC. )

Defendant. )

Case No. \_\_\_\_\_

COMPLAINT

COPY

COMES NOW the Plaintiff, Nebraska Department of Environmental Quality ("NDEQ"), who institutes this action through its attorney, Jon C. 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 1999) of exercising exclusive supervision, administration, and enforcement of the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 1999, Cum. Supp. 2004), the Livestock Waste Management Act, Neb. Rev. Stat. §54-2416 *et seq.* (Reissue 2004), and all rules, regulations, and orders promulgated thereunder.

2. At all times material herein, the Defendant, Gary Kroenke, Lou Kroenke Farm, Inc., doing business as Kroenke Farms, Inc. owned and operated a livestock operation, located in Dodge County, Nebraska.

3. On or about April 29, 2004, Plaintiff issued an Administrative Order requiring Defendant to complete construction of a livestock waste control facility as approved by the

Department by August 1, 2005. This Administrative Order was not contested and became a final order on May 29, 2004.

4. Defendant did not complete construction of a livestock waste control facility as approved by the Department by August 1, 2005.

5. Neb. Rev. Stat. §81-1508.02 (1)(b) (Reissue 1999) makes it unlawful for any person to “violate...any order of the director.”

6. Pursuant to Neb. Rev. Stat. §81-1508.02(1)(b) and (2) (Reissue 1999) where there has been a violation of an order of the director, a civil penalty is provided in the amount of not more than ten thousand dollars (\$10,000) for each day of violation.

#### **SECOND CLAIM**

7. Plaintiff hereby incorporates by reference each and every allegation contained paragraphs 1 through 6, as if fully set forth herein.

8. The Director, pursuant to Neb. Rev. Stat § 81-1508(2) (Reissue 1999), asks the Court for an injunction enjoining the Defendant from any further livestock operations in open lots beginning August 1, 2006 until a waste control system and permits are in place.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendant in the form of civil penalties as provided in Neb. Rev. Stat. §81-1508.02(2) (Reissue 1999), an injunction be entered and that all costs of this action be taxed to the Defendant. Plaintiff prays that the Court consider “the degree and extent of the violation, the size of the operation, and any economic benefit derived from noncompliance” in determining the appropriate civil penalty pursuant to Neb. Rev. Stat. 81-1508.02 (2).

DATED THIS 24<sup>th</sup> day of March, 2006.

**STATE OF NEBRASKA ex rel.,  
MICHAEL J. LINDER, Director  
Department of Environmental Quality,  
Plaintiff,**

BY: JON BRUNING # 20351  
Attorney General

BY: 

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