

IN THE DISTRICT COURT FOR THAYER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
)
Plaintiff,)
v.)
)
NORDER SUPPLY, INC.,)
)
Defendant.)

Case No. _____

COMPLAINT

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

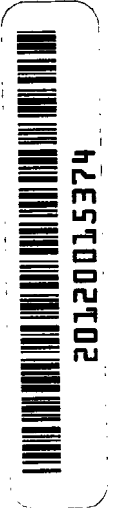
1. NDEQ is the agency of the State of Nebraska charged under Neb. Rev. Stat. § 81-1504(1) (Reissue 2008), with exercising exclusive supervision of the administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2008, Supp. 2009) and all rules and regulations promulgated under the Act, including Titles 117, 119, and 198 of the Nebraska Administrative Code.

2. Norder Supply, Inc. is a Nebraska corporation and at all relevant times operated an agricultural chemical supply business in Thayer County, Nebraska.

FIRST CLAIM

3. Under 119 Neb. Admin. Code, ch. 2, § 001, no person shall discharge any pollutant into any waters of the state from a point source without first having obtained a permit from NDEQ for such discharge, unless otherwise exempted under 119 Neb. Admin. Code, ch. 3.

4. On July 25, 2009, Norder Supply discharged a chemical fertilizer into waters of the state in Thayer County, Nebraska. Norder Supply did not possess a permit from NDEQ for



the discharge and was not otherwise exempted from the permit requirements under 119 Neb. Admin. Code, ch. 3.

SECOND CLAIM

5. Under 117 Neb. Admin. Code, ch. 4, § 003.01C, surface waters shall be free from toxic substances, alone or in combination with other substances, in concentrations that result in acute or chronic toxicity to aquatic life.

6. On July 25, 2009, Norder Supply discharged a toxic substance into the Little Blue River in Thayer County, Nebraska in a concentration that resulted in acute toxicity to aquatic life and caused the death of fish.

THIRD CLAIM

7. Under 198 Neb. Admin. Code, ch. 8, §§ 002 and 006, releases of pesticide or fertilizer from a secondary containment facility or loadout facility shall be immediately reported to NDEQ.

8. On July 25, 2009, Norder Supply released fertilizer from its secondary containment facility, but failed to immediately report the release to NDEQ.

9. Under Neb. Rev. Stat. § 81-1506(3)(c) (Reissue 2008), it is unlawful for any person to violate any rule or regulation adopted and promulgated under the Environmental Protection Act.

10. Under Neb. Rev. Stat. § 81-1508.02(2) (Reissue 2008), any violation of § 81-1506 or shall subject a person to a civil penalty of no more than \$10,000 per day.

11. Under Neb. Rev. Stat. § 81-1508(1) (Reissue 2008), any person who violates any provision of the Environmental Protection Act and causes the death of fish shall be liable to the state an amount equal to the sum of money reasonably necessary to restock waters with fish, as

determined by the director of NDEQ after consultation with the Nebraska Game and Parks Commission.

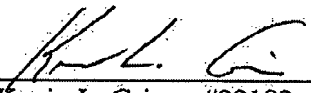
The State requests that judgment be entered in favor of the State and against Norder Supply in the form of (1) civil penalties, as provided under § 81-1508.02(2), and (2) an amount equal to the sum of money reasonably necessary to restock waters with fish, as determined by the director of NDEQ after consultation with the Nebraska Game and Parks Commission, as provided under § 81-1508(1); and that all costs of this action be taxed to Norder Supply.

Dated: February 10, 2012.

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

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