

IN THE DISTRICT COURT OF ADAMS COUNTY, NEBRASKA

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

Plaintiff,

v.

CHIEF ETHANOL FUELS, INC.,
Defendant.

Case No. _____
Doc. _____ Page _____

COMPLAINT

FIRST CAUSE OF ACTION

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

2. The defendant, Chief Ethanol Fuels, Inc., owns and operates an ethanol production plant located in Adams County, Nebraska, and is authorized to do business as a corporation under Nebraska law.

3. By virtue of the potential volume of air contaminants emitted at the plant the defendant was required to, and did obtain from the plaintiff, an air quality operating permit issued on May 26, 2006.

4. Pursuant to Neb. Rev. Stat. §81-1506(4)(b)(Reissue 2008), it shall be unlawful to “[v]iolate any term or condition of an air pollution permit...”

5. The defendant's operating permit issued on May 26, 2006, provided that emissions of the pollutant PM10 from its emission point F-11107 shall not exceed 0.728 lb/hr.

6. On or about October 2, 2006, the defendant emitted PM10 from emission point F-11107 in the amount of 1.594 lb/hr in violation of the permit.

7. Pursuant to Neb. Rev. Stat. § 81-1508.02 (Reissue 2008) a civil penalty is provided in instances of violation of permits issued by the Department of Environmental Quality in an amount not to exceed ten thousand dollars (\$10,000) per offense, with each continuing day constituting a separate offense.

SECOND CAUSE OF ACTION

8. The plaintiff hereby incorporates the allegations contained in paragraphs numbered 1 through 7 as if fully set forth herein.

9. The defendant's permit issued May 26, 2006, provides that emissions of the pollutant PM10 from its emission point F-11201 shall not exceed 0.005 lb/hr.

10. On or about October 2, 2006, the defendant emitted PM10 from emission point F-11201 in the amount of 0.014 lb/hr.

THIRD CAUSE OF ACTION

11. The plaintiff hereby incorporates the allegations contained in paragraphs numbered 1 through 10 as if fully set forth herein.

12. The defendant's permit issued May 26, 2006, provides that emissions of the pollutant PM10 from its emission point F-11202 shall not exceed 0.082 lb/hr.

13. On or about October 2, 2006, the defendant emitted PM10 from emission point F-11202 in the amount of 0.099 lb/hr.

FOURTH CAUSE OF ACTION

14. The plaintiff hereby incorporates the allegations contained in paragraphs numbered 1 through 13 as if fully set forth herein.

15. The defendant's permit issued May 26, 2006, provides that emission of the pollutant PM10 from its emission point F-11301 shall not exceed 0.011 lb/hr.

16. On or about October 2, 2006, the defendant emitted PM10 from emission point F-11301 in the amount of 0.023 lb/hr.

FIFTH CAUSE OF ACTION

17. The plaintiff hereby incorporates the allegations contained in paragraphs numbered 1 through 16 as if fully set forth herein.

18. The defendant's permit issued May 26, 2006, provides that emissions of the pollutant PM10 from its emission point F-1601 shall not exceed 0.124 lb/hr.

19. On or about October 2, 2006, the defendant emitted PM10 from emission point F-1601 in the amount of 0.201 lb/hr.

SIXTH CAUSE OF ACTION

20. The plaintiff hereby incorporates the allegations contained in paragraphs numbered 1 through 19 as if fully set forth herein.

21. The defendant's permit issued May 26, 2006, provides that emissions of the pollutant PM10 from its emission point F-16201 shall not exceed 0.0135 lb/hr.

22. On or about October 2, 2006, the defendant emitted PM10 from emission point F-16201 in the amount of 0.785 lb/hr.

SEVENTH CAUSE OF ACTION

23. The plaintiff hereby incorporates the allegations contained in paragraphs numbered 1 through 22 as if fully set forth herein.

24. The defendant's permit issued May 26, 2006, provides that emissions of the pollutant PM10 from its emission point F-16201 shall not exceed 0.135 lb/hr.

25. On or about June 19, 2007, the defendant emitted PM10 from emission point F-16201 in the amount of 0.258 lb/hr.

EIGHTH CAUSE OF ACTION

26. The plaintiff hereby incorporates the allegations contained in paragraphs numbered 1 through 25 as if fully set forth herein.

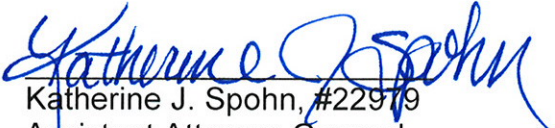
27. The defendant's permit issued May 26, 2006, provides that emissions of the pollutant PM10 from its emission point 14-1 shall not exceed 0.024 lb/MMBtu

28. On or about October 2, 2006, the defendant emitted PM10 from emission point 14-1 in the amount of 0.0499lb/MMBtu

WHEREFORE, Plaintiff prays that judgment be entered in favor of Plaintiff and against Defendants in the form of civil penalties as provided in Neb. Rev. Stat. §81-1508.02(2), and that all costs of this action be taxed to Defendants.

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


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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 this 23rd day of January, 2009, addressed to the Defendant's attorney of record as follows:

Donald L. Dunn
Rembolt Ludtke LLP
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Katherine J. Spohn
Assistant Attorney General