

COPY

IN THE DISTRICT COURT FOR YORK COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
 MICHAEL J. LINDER, Director)
 DEPARTMENT OF ENVIRONMENTAL)
 QUALITY,)
)
 Plaintiff,)
)
 v.)
)
 HAMILTON SUNDSTRAND)
 CORPORATION,)
)
 Defendant.)

Case No. _____ FILED IN THE DISTRICT COURT YORK COUNTY, NEBRASKA

DEC 23 2008

COMPLAINT

SHARON CUDA CLERK

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

1. NDEQ is the agency of the State of Nebraska charged with the duty, under 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. 2006, and Supp. 2007) and all rules and regulations promulgated under the Act, including Title 128 of the Nebraska Administrative Code, "Nebraska Hazardous Waste Regulations."

2. Hamilton Sundstrand Corporation is a Delaware corporation authorized to do business in Nebraska. Hamilton Sundstrand owns and operates a manufacturing facility in the city of York, York County, Nebraska. Hamilton Sundstrand is a "large quantity generator" of hazardous wastes as defined in 128 Neb. Admin. Code, ch. 1.

3. On August 29 and 30, 2006, NDEQ inspected Hamilton Sundstrand's manufacturing facility to determine if the facility complied with Title 128 of the Nebraska Administrative Code.

4. NDEQ's inspection determined that Hamilton Sundstrand failed to comply with Title 128 of the Nebraska Administrative Code in the following respects:

a. Hamilton Sundstrand failed to obtain a permit for the treatment of cyanide plating tank filters, a hazardous waste, in violation of 128 Neb. Admin. Code, ch. 12, § 001.01;

b. Hamilton Sundstrand failed to list the addresses in its contingency plan of all persons qualified to act as emergency coordinators and failed to designate the primary and alternate emergency coordinators, in violation of 128 Neb. Admin. Code, ch. 18, § 003.04;

c. Hamilton Sundstrand failed to maintain a contingency plan with an up to date list of all emergency equipment on site, in violation of 128 Neb. Admin. Code, ch. 18, § 003.05;

d. Hamilton Sundstrand failed to submit a copy of its contingency plan to NDEQ, local fire and police departments, hospitals, and state and local emergency response teams, in violation of 128 Neb. Admin. Code, ch. 18, § 004.02;

e. Hamilton Sundstrand failed to keep on file two copies of land disposal restriction notices for at least three years from the date the waste was last sent for off-site disposal, in violation of 128 Neb. Admin. Code, ch. 20, § 005.01H;

f. Hamilton Sundstrand failed to keep a container of universal waste lamps closed, in violation of 128 Neb. Admin. Code, ch. 25, § 012.04A;

g. Hamilton Sundstrand accumulated universal waste in excess of one year from the date the universal waste was generated, in violation of 128 Neb. Admin. Code, ch. 25, § 014.01;

h. Hamilton Sundstrand failed to mark a satellite container with the words "Hazardous Waste" or with other words to identify the contents of the container, in violation of 128 Neb. Admin. Code, ch. 10, § 005.01B;

i. Hamilton Sundstrand failed to close several containers holding hazardous waste, in violation of 128 Neb. Admin. Code, ch. 10, § 004.01A2;

j. Hamilton Sundstrand failed to label or mark a hazardous waste accumulation container with the words "Hazardous Waste," in violation of 128 Neb. Admin. Code, ch. 10, § 004.01G;

k. Hamilton Sundstrand failed to make a hazardous waste determination of Teflon spacers used at its facility, in violation of 128 Neb. Admin. Code, ch. 4, § 002;

l. Hamilton Sundstrand failed to maintain documents and records that documented the training of its personnel who handle hazardous waste, in violation of 128 Neb. Admin. Code, ch. 19, § 004.04;

m. Hamilton Sundstrand failed to document the weekly hazardous waste inspection for the week of May 22, 2006, in violation of 128 Neb. Admin. Code, ch. 10, § 004.01A4.


5. Under Neb. Rev. Stat. § 81-1506(3)(c) (Reissue 1999), it is unlawful to violate any rule or regulation promulgated under the Environmental Protection Act. Any

such violation subjects a person, under Neb. Rev. Stat. § 81-1508.02 (Reissue 1999), 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.

The State requests that judgment be entered in favor of the State and against Hamilton Sundstrand in the form of civil penalties as provided in § 81-1508.02, and that all costs of this action be taxed to Hamilton Sundstrand.

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

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