

IN THE DISTRICT COURT OF BOONE COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	Case No. _____
MICHAEL J. LINDER, Director)	
DEPARTMENT OF ENVIRONMENTAL)	
QUALITY,)	
Plaintiff,)	COMPLAINT
v.)	
)	
James D. Pillen, d/b/a)	
Mt. Echo Reproduction Facility,)	
)	
Defendants.)	
)	

COMES NOW the Nebraska Department of Environmental Quality (hereinafter the "Department" or "Plaintiff"), who institutes this action through Jon C. Bruning, Attorney General, and alleges and states as follows:

FIRST CLAIM

1. The 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 (Reissue 1999) *et seq.* and the Livestock Waste Management Act, Neb. Rev. Stat. § 54-2416 (Reissue 1999) *et seq.*, along with all rules, regulations, permits, and orders promulgated thereunder.

2. At all times material herein the Defendant, James D. Pillen, doing business as Mt. Echo Reproduction Facility, owned and operated an animal feeding operation, located in Boone County, Nebraska.

3. Pursuant to the authority granted to the Nebraska Environmental Quality Council in Neb. Rev. Stat. §81-1504(1), the Council has adopted Title 130, *Rules and Regulations Pertaining to Livestock Waste Control*.

4. Title 130, Chapter 2, Section 008, states that any person who owns or operates on an animal feeding operation shall not allow or cause a discharge.

5. Pursuant to Neb. Rev. Stat. § 81-1506 (5) (d) it is unlawful for any person to violate any rule or regulation adopted by the Council.

6. On or about August 27, 2007, the Defendant allowed or caused a discharge of livestock waste to waters of the State at its Mt. Echo Reproduction Facility in Boone County, Nebraska.

7. Pursuant to Neb. Rev. Stat. § 81-1508.02 (1) and (2) a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each day violation, and in the case of a continuing violation, each day shall constitute a separate offense.

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 (Reissue 1999) and further that all costs of this action be taxed to the Defendant.

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

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CERTIFICATE OF SERVICE

It is hereby certified that on this 4th day of December, 2008, a true and accurate copy of the foregoing Complaint has been served upon Defendant herein by placing a copy of the same in the United State Mail, first class postage prepaid, addressed to Defendant's attorney of record.


Katherine J. Spohn
Assistant Attorney General