

IN THE DISTRICT COURT OF YORK COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
Plaintiff,)
v.)
BLUE RIVER PORK, INC.,)
Defendant.)

Case No. _____

COMPLAINT

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 2008) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 2008) *et seq.*

2. At all times material herein the Defendant, Blue River Pork, Inc., owned and operated an animal feeding operation, located in York County, Nebraska.

3. Neb. Rev. Stat. §81-1506 (5) (c) and §81-1508.02 (1) (b) make it unlawful for any person to violate any term or condition of an animal feeding operation permit.

4. In June 2008, Defendant obtained a construction and operating permit for its animal feeding operation which required that the waste control facility not be operated until written approval was received from the Department.

5. On or about August 14, 2008, Defendant operated the waste control facility without written approval from the Department.

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

SECOND CLAIM

7. Plaintiff hereby incorporates by reference paragraphs 1-6 of its Complaint.


8. In June 2008, Defendant obtained a construction and operating permit for an animal feeding operation which required that Defendant obtain approval from the Department prior to making any modifications or changes to the design or operation of the waste control facility.

9. On or about August 2008 it was discovered that Defendant had changed the design and operation by changing the piping and destination of the waste from storage pit 1 to storage pit 2, without approval from the Department.

WHEREFORE , the Plaintiff prays that judgment by 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) 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

By JON C. BRUNING, #20351
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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 10th day of February, 2011, addressed to the Defendant as follows:

Matt Clark
Blue River Pork, Inc.
Box 205
McCool Junction, Nebraska 68401


Katherine J. Spohn
Special Counsel to the Attorney General