

IN THE DISTRICT COURT OF HITCHCOCK COUNTY, NEBRASKA

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

Plaintiff,

v.

TRENTON AGRI PRODUCTS, LLC,
a corporation authorized to do business in
Nebraska,

Defendant.

Case No. CJ 11-32

COMPLAINT

COMES NOW Michael J. Linder, Director of the Department of Environmental Quality, who institutes this action through Jon C. Bruning, Attorney General, on behalf of the State of Nebraska as plaintiff and alleges as follows:

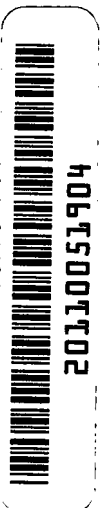
1. Plaintiff, the Nebraska Department of Environmental Quality (hereinafter "Department" or "NDEQ"), is at all times material herein the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. §81-1504 (Reissue 2008) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. §81-1501 to -1532 (Reissue 2008), and all rules, regulations, orders, and permits created thereunder. The NDEQ is also charged with the duty, pursuant to Neb. Rev. Stat. §81-1504 (1) & (4) (Reissue 2008), to act as the state air pollution control agency for all purposes of the Clean Air Act, 42 U.S.C. §7401-7671, as amended.

2. Defendant, Trenton Agri Products, LLC, is a corporation authorized to do business in Nebraska and owns an ethanol plant in Hitchcock County, Nebraska.



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FILED 8-29-11
M. Fellman
Clerk of the District Court
Hitchcock County, NE



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3. At all times material herein, operation of the defendant's facility has been subject to the terms of a construction permit #CP06-0039 (hereinafter "construction permit"), issued pursuant to Neb. Rev. Stat. §81-1504 (11) (Reissue 2008) on February 26, 2009.

4. The construction permit, Section (III)(B)(3)(a), states, "[e]missions from the emission units ... shall be controlled by pollution control equipment as follows: Fermenters #1 through #4 and beerwell shall be controlled by C40-CO2 Scrubber."

5. On or about June 9, 2010 the defendant allowed uncontrolled emissions to leak from Fermentation Tanks #1-4 and a manway on Fermentation Tank #3 in violation of defendant's construction permit.

6. On or about June 11, 2010, the defendant allowed uncontrolled emissions to leak from a manway on Fermentation Tank #3 in violation of defendant's construction permit.

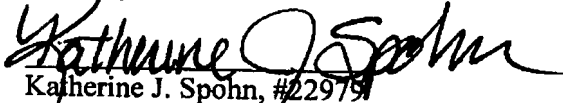
7. Neb. Rev. Stat. §81-1506 (4) (2008) declares that it is unlawful to "(b) Violate any term or condition of an air pollution permit or any emission limit set in the permit..."

8. Pursuant to Neb. Rev. Stat. §81-1508.02 (Reissue 2008), violations of permits issued by the Department are subject to civil penalty not to exceed ten thousand dollars per day, per violation.

WHEREFORE Plaintiff prays that the court enter judgment herein against Defendant in the form on a civil penalty as provided under Neb. Rev. Stat. §81-1508.02 (Reissue 2008) and that all court costs herein 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 ~~21st~~ ^{22nd} day of August, 2011, addressed to the Defendant's attorney of record as follows:

Michael S. Mostek
Koley Jessen P.C., L.L.O.
One Pacific Place
1125 South 103rd Street, Suite 800
Omaha, Nebraska 68124


Katherine J. Spohn
Special Counsel to the Attorney General